

United States of America  
Before the  
Securities and Exchange Commission

Administrative Procedure File 3-21841

In the Matter of the Application of Ahmed Mohiddin and George Weinbaum

For Review of PCAOB Action

George Weinbaum's Follow up on June 4, 2024 Brief

July 5 2024

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Every day brings something new. On June 6 I found *Box*. "Before the court are Defendants, Relief Defendants and Receiver's Petition for attorney fees and costs pursuant to the court's Sanctions Order imposing against Plaintiff [SEC] a sanction of attorney fees and costs for all expenses arising from the emergency *ex parte* relief improvidently entered into in this action", *Box*, 2. Is *Box* like the PCAOB's stay lift request against me **before** the SEC rules **on my case's merits**? "On March 18, 2024, the court found the [SEC] engaged in bad faith conduct in obtaining and defending the TRO and imposed a sanction against the [SEC] of all attorney fees and costs arising from the improvidently entered into *ex parte* relief", *Box*, 3. Were PCAOB actions **after** reviewing Adamant's restatement in bad faith? Again, compare my actions to Deloitte and Touche's (D&T) Leadership Opportunity Committee's or Mohidin's to Christopher Anderson. Further, there was **no trial on the merits** and PCAOB "hearings" are **in substance**, grand jury proceedings. That my case is adjudicated, not settled is irrelevant. Brett Collings' implicit claim that five is less than two is: **PREPOSTEROUS!**

"Facing an enterprise-threatening [SEC] enforcement action [EA] involving novel and complex issues of federal securities law, they hired counsel they determined to be well-suited for the challenge", *Box*, 8. Does the PCAOB "stay lift" "enterprise-threaten" the George Weinbaum (GW) "enterprise"? If not, **what was it intended to be?** The defendants were awarded \$1,822,000, *Box*, 24. A District Court judge found **SEC lawyers engaged in bad faith conduct**. Did the SEC ever find PCAOB lawyers did in 21 years?

On June 5 I downloaded *Waggoner's* first page and the PCAOB EAs list from its website, which states, "by law the sanction is stayed pending further action by the SEC". **By law?** The PCAOB wants to lift my stay **now!** Where is *Reinhart*? The PCAOB states, "The PCAOB

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posts all publicly available opinions, orders, terminations of bars, and other Board [EAs], as well as related SEC and court actions on review of those sanctions", my emphasis. Is a "falsus in uno, falsus in omnibus" instruction appropriate? Does the *Bank of New England* doctrine apply, my December 30, 2023 submission, 43? Well? Should PCAOB lawyers be charged with knowledge of this statement as showing their **bad faith**?

"Private funds are excluded from the definition of 'investment company' because they satisfy certain statutory requirements", *Private*, 4. "More telling, section 913 of the Dodd-Frank Act ... applies to 'retail customers', not private fund investors. It has nothing to do with private funds", *Private*, 20. "The Final Rule's 'anti-fraud' measure is pretextual", *Private*, 23. Is the PCAOB case against me pretextual? "The Commission largely fails to 'define' the fraudulent acts or practices that the Final Rule purportedly is designed to prevent", *Private*, 23. Like the PCAOB's new proposed rules. "The [SEC] ... on August 23, 2023, by a 3-2 vote, adopted the Final Rule", *Private*, 11. I read this and thought, "I bet I know who the dissenters were".

"The reality, is that those pensioners are paying, often quite handsomely, teams--often quite large teams--of financial markets experts, MBAs, and lawyers, to invest their money wisely. If this rulemaking is designed to usurp the roles of these professionals, than any rationale for keeping retail investors out of private funds falls away", *Uprooted*, 3. Agree! "The [SEC] struggles mightily to paint a picture of a failed market desperately in need of a prescriptive regulatory solution", *Uprooted*, 3. Like the PCAOB's two April proposed auditing "fixes". "Dickensian tale", *Uprooted*, 4. I would have cited Kafka's *Parable of the Law* (1915), or *Trial* (1915).

"The solution we are considering today lacks a statutory basis", *Uprooted*, 5. Agree. "So too we could argue that imposing material limitations on a football team's management

and coaching staff on questions of trades, plays, and salary negotiations do not restrict the football team itself", *Uprooted*, 8. Commissioners Gensler, Crenshaw and Lizarraga, 26 USC 482 lets the IRS "recast" transactions **to reflect their substance**. The law respects substance. "Large incumbent advisers will figure out how to comply, but newer, smaller advisers will struggle to enter the industry and compete with incumbents", *Uprooted*, 9. The PCAOB has protected the Big Four (BF) for 21 years! "The [SEC] at least acknowledges, albeit with little regret, that other advisers may decide to exit the market and that 'competition may be reduced'," *Uprooted*, 9. "Given how dire the release suggests the current situation is for private fund investors, why have they been pouring increasing amounts of money into these funds over recent years?", *Uprooted*, 11. Have we "revealed preference" here? In 1924 Lenin was asked if the USSR had elections, "Of course. During the revolution, the people could have gone to our lines or the Czar's. They chose our lines. They voted with their feet".

"This inconsistency is only one reason why these final rules are arbitrary and capricious", *Compliance*, 1. Like my treatment and D&T's. "Congress ... does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions--it does not, one might say, hide elephants in mouse holes'," *Compliance*. I was unfamiliar with this quote so read *Whitman*. It reminded me of my December 30, 2023 submission, 22-23 which uses the "lion mouse weight". "Those [civil monetary penalty "CMP"] sanctions include ... (5) the need to deter that individual and others from such conduct", *Robbins*, page 77. Does anyone believe a \$150,000 CMP for a tiny firm like AJ Robbins LLC will deter the BF from similar behavior? I think actions like 105-2021-001 have **no deterrent effect** on the BF, it shows them the PCAOB "catches minnows and ignores whales". An average mouse weighs .68 ounces, *Mouse*. Female

mountain lions weigh 64 to 141 pounds, *Lion*, a 102.5 pound average, you may check my arithmetic. 102.5 pounds x 16 ounces per pound is: 1,640 ounces. 1,640 ounces / .68 ounces is 2,412 or a "lion mouse weight". Follow me so far? I recollect my 10th grade Chemistry teacher discussing units and the "factor label method". 2,412 is the same order of magnitude as 1,676. Does MBD believe you frighten lions by killing mice? PCAOB, go "catch some lions".

"I am also deeply concerned that the [SEC] is effectively sidestepping its economic analysis obligation by refusing to consider the aggregate impact of recent rulemakings for investment advisers", *Compliance*, 4. What does the PCAOB do? "One has to question whether the [SEC] considers the **entrenchment of the largest investment advisory firms as a feature--** rather than a flaw--of this rulemaking", my emphasis, *Compliance*, 5-6. Sound familiar?

"The late Chief Justice Rose Bird ... after a political firestorm over the court's reversals of death sentences, one of the first three justices to be denied a new term by the voters", *Pioneering*, 1. "But the issue that dominated public discourse was the death penalty. ... But the Bird court found constitutional flaws in death verdicts issued under the new law and overturned 61 death sentences over the next nine years, while Bird voted to reverse all 65 capital cases she considered", *Pioneering*, 3. The hoi polloi concluded Bird ignored the law, using ex post justification for her "decisions". Now I "run some numbers" to test the theory. I assume various affirmation rates to see if Bird's "decisions" were due to chance, beginning with 10%. I stopped at 39% because of gigacalculator's precision limits. The hoi polloi looks right.

Affirmance Rate	Probability	Ratio
10%	.00106	1 in 943
20%	.000000502	1 in 1,992,032
30%	.00000000008538	1 in 11.71 billion
39%	.0000000000000001	1 in 1 quadrillion

"The Executive Order alleges in summary that 'during Worrell's tenure in office, the administration of criminal justice in the Ninth Circuit has been so clearly and fundamentally derelict as to constitute both neglect of duty and incompetence'," *Florida*, 2-3.

It cites Worrell's prosecutorial record as support for these allegations--stating, for example, that of the 130 cases involving possession of a firearm by a convicted felon referred to the Ninth Circuit by the Osceola County Sheriff's Office [OCSO] in 2021 and 2022, only five resulted in a minimum mandatory sentence. As another example, the Executive Order says that of 58 non-homicide robbery--with a firearm cases referred by the [OCSO's] to the Ninth Circuit during that same time, only one, as of May 2023, had resulted in the minimum mandatory sentence, *Florida*, 3.

"Incompetence 'may arise from gross ignorance of official duties or gross carelessness in the discharge of them ... [or] from lack of judgment and discretion'," *Florida*, 6. "We cannot agree with Worrell that the allegations in the Executive Order ... address conduct that falls within the lawful exercise of prosecutorial discretion", *Florida*, 7. "What is more, we have said that a suspension order does not infringe on a state attorney's lawful exercise of prosecutorial discretion when it alleges that such discretion is, in fact, not being exercised in individual cases, but rather that generalized policies have resulted in categorical enforcement practices", *Florida*, 8. Why does the PCAOB need new rules when it fails to prosecute **over 95%** of the cases it could bring against the BF? Were PCAOB lawyers to be Florida state attorneys. Imagine. "While broad in its lawful scope, prosecutorial discretion is **no complete defense to an allegation of incompetence or dereliction of duty**", my emphasis, *Florida*, 8-9.

"We are writing to you today on to bring to your attention the urgency to organize a hearing in the House Financial Services Committee related to the risks for the financial market and the economy posed by the failures of major accounting firms and the ... PCAOB, which

is tasked with overseeing them", *Waters*, 1, "However, since its inception, the PCAOB has turned a blind eye on improper behavior by accounting firms resulting in minimal [EAs]. According to a recent report by ... POGO, POGO found that in the board's 16 years existence, the board cited 808 instances where the firms issued defective audits that the audit firms shouldn't have vouched for a company's financial statements, internal controls, or both. ... SEC and PCAOB fines and charges against the Big 4 seem to be inconsequential and do not result in a better respect of auditing standards", *Waters*, 2. The \$100 million 2022 SEC E&Y fine was **not** for a defective audit, but for continuing education "cheating". I say, "so"? "Considering their revenue, PCAOB penalties do not serve as a proper deterrent" for the B4, *Waters*, 2. Agree.

"In 2012, Mr. Botta blew the whistle on his employer to the SEC after uncovering fraud related to conflicts of interest between PwC and his clients", *Waters*, 3. "What's disturbing about this case as POGO reported, one of the PCAOB investigators who looked into Mr. Botta's allegations against PwC used to work for PwC. This example of the revolving door is troubling to say the least", *Waters*, 4. Craig Seigel, one of my "investigators" joined PWC after leaving the PCAOB. I last found him employed by D&T.

"We teach auditing and conduct research in the areas of auditor judgment and decision making and audit regulation. We also have years of collective experience in public practice. Our background leads us to care deeply about the viability and future of the auditing profession. ... However, we do not support the proposal to reduce the threshold standard of conduct for contributory liability from recklessness to ordinary negligence for two primary reasons. First, the proposal would place a disproportionate burden on individuals assigned quality control responsibilities within a firm's system of quality control. Second, the proposal reflects a



fundamental shift in the PCAOB's approach to regulatory oversight, moving away from a supervisory approach and towards an enforcement approach", *Cannon*, 1. I disagree in part as the PCAOB only follows a "supervisory approach" with respect to the B4.

"The proposed change in the threshold for liability would place an unfair burden on national office partners responsible for a firm's quality control functions and engagement quality review partners", *Cannon*, 2. I believe the proposed rule, in part, is **designed** to let the B4 choose audit failure scapegoats. "Instead, these individuals are tasked with maintaining high audit quality **without control over key factors that impact audit quality**", my emphasis, *Cannon*, 2. Agree. "We are concerned that based on this premise, the PCAOB will pursue [EAs] against a **single scapegoat** when the firms' partners collectively are responsible for the strategy and resource allocation decisions that led to the firm's negligence", my emphasis, *Cannon*, 2.

*Cannon* mentions Marcum, my April 18, 2024 submission, 22-24. "However, in the same [EA] the SEC also singled out one of the firm's partners for additional disciplinary action. This additional action does not appear appropriate because although this individual was responsible for quality control, there is **no indication that he controlled the firm's strategy or resource allocation decisions**. ... The individual ... could not rely on his firm to fully defend himself because the most important arguments in his defense were prejudicial to his firm", my emphasis, *Cannon*, 2. Agree. Cal. Civil Code 3526, "No man is responsible for that which no man can control". I saw **no SEC evidence** Giugliano controlled Marcum's client acceptance.

"We are concerned that if this proposal is adopted it will further degrade the pipeline to the accounting profession more broadly, a topic of critical importance that is gaining

increasing attention, as well as retention of high quality practising CPAs", *Cannon*, 3. It appears Guigiano had **no** authority over Marcum's apparent decision to sign anything for fee.

"This academic research suggests that the PCAOB enforcement resources would be most effective when reserved for excessive auditor misbehavior that has resulted in actual investor harm or that threatens the PCAOB's regulatory oversight", *Cannon*, 4. This statement assumes the PCAOB **wants** to prevent investor harm. I think the PCAOB's real business is providing innumerate, economic illiterates sinecures.

"This matter involves improper professional conduct by PwC, ... from 2013 through 2016, in connection with nineteen engagements for fifteen SEC-registrant issuers", *PWC*, 2. None of the 15 issuers was named. "PWC mischaracterized non-audit services as audit work", *PWC*, 2. What did I mischaracterize? The SEC did **not** sanction PWC's Brandon Sprankle. Apparently, Issuer A's 2011 and 2012 financials had errors, *PWC*, 3. Was PWC and the relevant audit partner sanctioned for these audits? Did the PCAOB investigate them? Did the PCAOB do anything in November 2014, about supposed PWC independence concerns, *PWC*, 4? I found no PCAOB EA for this. Sprankle, "changed the description of the services", *PWC*, 8. The SEC levied \$7.9 million in total fines on PWC, *PWC*, 16. We do not know PWC's total fees for the 19 engagements so have no basis to conclude if the \$7.9 million is "large" or "small". Did any SEC lawyer read *Path*, my July 27, 2023 submission, 20-21?

David Hall, Michelle Cochran and Susan Cisneros were named in *Hall*. Each Hall client was named, *Hall*, 12-15, 25 engagements in all. No individual was named in *PWC*. Since we do **not** know PWC's clients, we do not know their total MC, but I assume it was 1,000X that

of Hall's. Why did the SEC bother with *Hall*? Did Senator Metcalf tell us in **1976**? Cochran and Cisneros each got a time bar and monetary sanction, *Hall*, 32.

PCAOB inspectors can "fix" auditing and make more money than B4 partners. How? Quit! Form a new CPA firm each partner having at least five years as a PCAOB inspector. The new firm should have lots of clients. If Andersen gave SEC registrants a 6% market cap (MC) decline, compared to the Final Four, how much will SEC registrant MC **increase** when one files an 8-K and hires the new firm? It's founding partners can be: Petruzzo, Chen, Armendez, O'Neil and Baker! Diverse! Now find appropriately named PCAOB inspectors. The new firm will be called PCAOB. Free audits! Martin Schmalz can tell us how many basis points the WACC will decrease for PCAOB clients. In two or three years, PCAOB will have so many former B4 clients the BF will revamp their audits to come up to PCAOB standards! I first suggested this to PCAOB inspectors about 15 years ago. Really! So far, PCAOB, the CPA firm, does **not** exist. Could PCAOB inspectors believe PCAOB will have **less** credibility than the B4?

"I respectfully dissent from the Order, approved by a three-to-two vote of the Commission, to overturn the automatic disqualification of Royal Bank of Scotland Group, plc ('RBS') from eligibility as a 'Well-Known Seasoned Issuer', *RBS*, page 1, my December 30, 2023 submission, 59-60.

They rest largely upon the notion that the triggering conduct is insignificant when considered in the context of a large financial institution with global operations. I fear that the Commission's action to waive our own automatic disqualification provisions arising from RBS's criminal misconduct may have enshrined a new policy-that some firms are just too big to bar. ... We need to step back and think broadly about what these provisions are intended to accomplish, and ask ourselves--are we achieving the intended goals? **Are they being fairly applied to all firms and individuals? Large institutions should be treated no differently, neither better nor worse, than small and medium-sized issuers.** Sound policy arguments have been made that we need more tools to police and

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regulate our markets, But we also need to ensure that we correctly and fairly utilize the tools we have, my emphasis, *RBS*, 2. Does the PCAOB need *Proposed*?

"Some large firms have received well over a dozen waivers of one sort or another over the past several years. One large firm alone, in a 10 year period, has received over 22 different waivers--often making the argument that it has a 'strong record of compliance with federal securities laws'," *RBS*, 3. BF clients had at least 1,000 restatements the PCAOB didn't bring EAs over. "However, their [large] size and complexity, should not insulate them from the same regulatory consequences that other issuers must bear", *RBS*, 3. Did you oppose the "catastrophic" defense, 37 *supra*? "The egregious nature of the misconduct weighs against a waiver. This is criminal conduct, part of a widespread scheme undertaken by multiple banks to manipulate LIBOR for profit", *RBS*, 4. "How could management not know? Did no one question the source of these profits? Alternatively, if management did not know, this too is a problem", *RBS*, 6. Who audited this? "However, these same types of offerings could be made from a non-WKSI shelf, so **they have not isolated any effect** from the loss of WKSI", my emphasis. *RBS*, 6. Did a Yale history major use the concept of a derivative?

"I respectfully dissent from the Commission's Order ('Order'), approved May 1, 2015. ... The Order grants Deutsche Bank AG a waiver from ineligible issuer status triggered by a criminal conviction of its subsidiary", *Deutsche*, 1, my December 30, 2023 submission, 60-61. "In granting this waiver, the Commission continues to erode even this lowest of hurdles for large companies, while small and mid-sized businesses appear to face different treatment", *Deutsche*, 2. "It is safe to assume that these waiver requests will continue to roll in, as issuers are now emboldened by an unofficial Commission policy to overlook widespread and serious

criminal misconduct", *Deutsche*, 3. Unofficial? "I am unable to conclude that Deutsche Bank's culture of compliance and **the reliability and accuracy of its future disclosures** establishes good cause for a waiver", my emphasis, *Deutsche*, 4. Disclosures? Was Deutsche audited? By whom? Did the PCAOB investigate the audits? "A review of WSKI waivers granted since August 2013, reveals a total of 12 such waivers granted, 100% of which went to large financial institutions", *Deutsche*, 5, footnote 6. There were five PCAOB EAs against the BF arising from audit deficiencies in 21 years.

Commissioner Stein, I now "connect the dots" for you. Uncle Sam's yearly deficits exceed a trillion dollars, thus Janet Yellen (JY) must sell at least a trillion dollars in bonds yearly. "Primary dealers are the trading counterparties of the New York Fed in its implementation of monetary policy", *Primary*, 1. Deutsche Bank and RBC are primary dealers, *Primary*, 2. Since JY distributes through the 24 primary dealers, she will protect them. Bond distribution is a "bigger fish" than compliance. "Bruno and Iacono were indicted along with 86 others for a conspiracy to import, sell and possess narcotics; some were acquitted; others, besides these two, were convicted, but they alone appealed", *Bruno*, 922.

The evidence allowed the jury to find that there had existed over a substantial period of time a conspiracy embracing a great number of persons, whose object was to smuggle narcotics into the Port of New York and distribute them to addicts both in this city and in Texas and Louisiana. This required the cooperation of four groups of persons; the smugglers who imported the drugs, the middlemen who paid the smugglers and distributed to retailers; and two groups of retailers--one in New York and one in Texas and Louisiana--who supplied the addicts, *Bruno*, 922.

See where I'm going? Peirce, don't disappoint me. You can do it. Think it through, no matter how painful. Hand continues:

The evidence did not disclose any cooperation or communication between the smugglers and either group of retailers, or between the two groups of retailers themselves, however, the smugglers knew that the middlemen must sell to the retailers, and the retailers knew that the middlemen must buy of importers of one sort or other. Thus then conspirators at one end of the chain knew that the unlawful business would not, and could not stop with their buyers; and those at the other end knew that it had not begun with their sellers. That being true, a jury might have found that all the accused were embarked in a joint venture, *Bruno*, 922. Got it now?

The "Jerome Powell Mob" is Hand's "smugglers", the "Gang of 24", "middlemen" and "retailers", smaller banks are "retailers" and US bonds the narcotics! After 48 years, it should be obvious that 1976's Big Eight, today's BF are retailers' "mules". *Bruno-2* reversed *Bruno* on other grounds. Heresy!

"The protection for freedom of speech applies not only to legislation, but also to **enforcement of the laws**. This case concerns a constitutional challenge to the selective enforcement of the District of Columbia's defacement ordinance against some viewpoints but not others", my emphasis, *Frederick*, 1131. "The Foundation alleged violations of the First and Fifth Amendments, concerning the defacement ordinance was facially constitutional, but arguing the **District's one-sided enforcement** of the ordinance was not", my emphasis, *Frederick*, 1131.

"The parties agree the ordinance does not, on its face, violate the First Amendment. ... Instead, the Foundation alleges the District discriminated on the basis of viewpoint by selectively enforcing the ordinance against those who chalked 'Black Pre-Born Lives Matter', but not against those who painted, marked, and chalked 'Black Lives Matter'," *Frederick*, 1132. Isn't PCAOB 21 year practice, BF firms matter, non-BF firms don't? A BF's failure would be "catastrophic". Why? "The Foundation claimed the District **seemed eager to arrest its members, pointing to the rapid, coordinated, and overwhelming response** to the small gathering in

August 2022. Because its protest was similarly situated to the Black Lives Matter protest, the Foundation argued that viewpoint discrimination was the only explanation for the District's disparate treatment", my emphasis, *Frederick*, 1135. How many days elapsed from Adamant's restatement to the PCAOB June 8, 2018 letter? Why did the PCAOB look at a \$1.34 million MC company's audit, yet ignore Broadcom's? Scandalous and impertinent?

"A selective enforcement claim has two elements: a plaintiff must demonstrate (1) he was similarly situated in material respects to other individuals against whom the law was not enforced, and (2) the selective enforcement infringed a constitutional right. In this Part, we set forth the similarly situated requirement and assess whether the Foundation's allegations are plausible", *Frederick*, 1136. I proved beyond peradventure, the PCAOB has not enforced its rules against BF firms. Are they **not** "similarly situated" because they are the BF? Now will the DC Circuit hold, violation of anti-trust law is sufficient for 2, as opposed to a constitutional right? The PCAOB and SEC are welcome to argue this point.

"Selective enforcement claims require courts to separate unlawful discrimination from the ordinary and lawful exercise of prosecutorial discretion", *Frederick*, 1136. What did Senator Metcalf find of the SEC 48 years ago? "Despite the general presumption against judicial review of prosecutorial decisions, courts may review selective enforcement claims to assess whether the executive's choice of prosecution targets infringes on constitutional rights. ... And 'although prosecutorial discretion is broad, it is not unfettered'", *Frederick*, 1137. Should investors have a cartel-free CPA profession? Should the PCAOB act against CPAs who bungle audits of enterprises with multi-billion dollar MCs, or those who **don't** bungle audits at all? Justice Gorsuch might have an opinion on this. "Individuals 'are similarly situated when their

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circumstances present no distinguishable legitimate prosecutorial factors that might justify making different prosecutorial decisions with respect to them'," *Frederick*, 1137. What factors let the PCAOB ignore D&T's LOC? The PCAOB "bears the burden" to enumerate them. "Determining whether a plaintiff is similarly situated to those not prosecuted will be a fact-intensive and case-specific comparative inquiry", my emphasis, *Frederick*, 1138. SEC: for years, I believed the PCAOB ignores fact inquiries, prosecuting "summary judgment" type cases. see 22 *infra*. Most of which, scandalous and impertinent notice, like did a CPA firm file Form AP timely. Does this protect investors? "There was also strong evidence that both groups violated the defacement ordinance", *Frederick*, 1138. Is there any evidence I encouraged Mohidin to do anything aside from go away? Well? "This lopsided prosecutorial response--several arrests for small, chalked pro-life messages and no arrests for widespread 'Black Lives Matter' messages--does not comport with the deterrence value of culpability associated with the number of protestors and the scope of defacement, suggesting improper selective enforcement", my emphasis, *Frederick*, 1138. I find numerical concepts here, like say SEC registrant MC, restatement size and time between error found and restatement. You don't suppose .... ?

"We find the Foundation has plausibly alleged its members were similarly situated to individuals expressing 'Black Lives Matter: across a broad range of relevant prosecutorial factors, including the strength of the case, available evidence, culpability, and the resources required to obtain a conviction", *Frederick*, 1138. Compare these factors in my case and D&T's. "The First Amendment protects against executive infringements on free speech and was directed at the 'core abuse' of licensing laws that granted broad discretion to enforce vague legislative schemes", *Frederick*, 1140. Is PCAOB action pursuant to a "vague legislative scheme"?



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"For a selective enforcement claim, a plaintiff must demonstrate the content-based discrimination was 'the result of an intentional policy or practice', shown '**by extrapolating from a series of enforcement actions**', my emphasis, *Frederick*, 1146. Did I? "This guarantee of equal protection includes a prohibition on 'selective enforcement of the law' based on impermissible considerations 'such as race'," *Frederick*, 1147. Will the PCAOB argue maintaining a cartel is "permissible"? "Determining plausibility is a 'context-specific task that requires the reviewing court to draw on ... common sense'," *Frederick*, 1148-1149.

"The existence of probable cause does not defeat a plaintiff's claim if he produces 'objective evidence that he was arrested when other-wise similarly situated individuals not engaged in the same sort of protected speech had not been'," *Gonzalez*, 1. "To bolster her claim, Gonzalez alleged that she reviewed the past decade's misdemeanor and felony data for Bexar County (where Case Hills is located) and that her review had found that Texas anti-tampering statute had never been used in the county 'to criminally charge someone for trying to steal a nonbinding or expressive document'," *Gonzalez*, 3. "The only express limit we placed on the sort of evidence a plaintiff may present for that purpose is that it **must be objective** in order to avoid 'the significant problems that would arise from reviewing police conduct under a purely subjective standard'," my emphasis, *Gonzalez*, 4-5, my April 17, 2023 submission, 18-20, Item 134 on objective evidence.

"While a showing of probable cause generally defeats a retaliatory-arrest claim, we observed that this requirement should be relaxed 'where officers have probable cause to make arrests, but typically exercise their discretion not to do so'," *Gonzalez*, Alito concurring, 7. "The defendants argue that permitting anything other than the kind of strict comparator evidence

demanding by the Fifth Circuit will defeat the whole purpose of the no-probable-cause rule", *Gonzalez*, Alito concurring, 8. "I agree with the court that a plaintiff does not need to identify another person who was not arrested under the same law for engaging in a carbon-copy course of conduct. ... And we certainly did not suggest that this jaywalker had to find others who committed the offense under the same conditions as those in his case--for example, on a street with the same amount of traffic traveling at the same speed within a certain distance from crosswalk at the same time of day", *Gonzalez*, Alito concurring, 10. "Courts must also ensure that they are assessing the plaintiff's conduct **at an appropriate level of generality because every arrest, if defined too specifically, can be described as the first of its kind**", my emphasis, *Gonzalez*, Alito concurring, 11. See my May 19, 2023 submission, 18-19, Item 141.

"Respondent's data compiled from the Hidalgo County grand jury records from 1962 to 1972 showed that over that period, the average percentage of Spanish-surnamed grand jurors was 30%", *Castenada*, 487. "The State offered no evidence at all either attacking respondent's allegations of discrimination or demonstrating that his statistics were unreliable in any way", *Castenada*, 488. "With a prima facie case made out, the **burden of proof shifts to the State** to rebut the presumption of unconstitutional action by showing that permissible racially neutral selection criteria and procedures have produced the monochromatic result", my emphasis, internal quotation marks omitted, *Castenada*, 494. "Next, the degree of underrepresentation must be proven, by comparing the proportion of the group in the total population to the proportion called to serve as grand jurors over a significant period of time", *Castenada*, 494. "The disparity proved by the 1970 census statistics showed that the population of the county was 79.1% Mexican-American, but that, over an 11-year period, only 39% of the per-

sons summoned for grand jury service were Mexican-American", *Castenada*, 495. "Since the State presented no evidence showing why the 11-year period was not reliable, we take it as the relevant base for comparison", *Castenada*, 496. I await a PCAOB attack on my data.

"Of the 870 persons who were summoned to serve as grand jurors over the 11-year period, 339, or 39% were Spanish surnamed", *Castenada*, note 7. "Given that 79.1% of the population is Mexican-American, the expected number of Mexican-Americans among the 870 persons summoned to serve as grand jurors over the 11-year period is approximately 688", *Castenada*, note 17. The Supremes use expected value,  $.791 \times 870 = 688.17$ . "Thus, in this case the standard deviation is approximately 12. As a general rule for such large samples, if the difference between the expected value and the observed number is greater than two or three standard deviation, then the hypothesis that the jury drawing was random would be suspect to a social scientist", *Castenada*, note 17. Here the Supremes refer to a social scientist, not a lawyer. Gigacalculator, at 591 "hits" gives us a probability of 1 in a quadrillion.

"This is not to say, of course, that **a simple protestation from a commissioner that racial considerations played no part in the selection would be enough. This kind of testimony has been found insufficient on several occasions.** ... Neither is the State entitled to rely on a presumption that their officials discharged their sworn duties to rebut the case of discrimination", my emphasis, *Castenada*, note 19. SEC Commissioners, has *Castenada* an implication for your OIG's 2015 "investigation", my December 30, 2023 submission, 49-51, see 23 *infra*?

"Regional banks around the U.S. are striking **complex and costly bargains** with hedge funds, hoping to insulate themselves from a replay of the turmoil that followed Silicon Valley Bank's failure last year. Wall Street smells a payday. ... The deal is known on Wall Street

as a **synthetic risk transfer**, and it offers cash-flush, private-debt fund managers--such as Ares Management and Blackstone-an attractive investment", my emphasis, *Regional*, A1. Their name makes these transactions suspect. Complex, costly? "'You could call it aggressive defense', said Ken Usdin, a banking analyst at Jeffries. 'They are optimizing for regulatory capital, but they are paying up for it'," *Regional*, A6. Will these things hurt banks' economics for accounting "window dressing"? Will the SEC look at their economic substance? "Late last year, the Fed gave U.S. banks another option, by letting them increase regulatory capital through risk transfers", *Regional*, A6. Is this a Fed-engineered accounting sham? Will the SEC look at them, or miniscule insider trading cases? Does anyone remember 1987's "portfolio insurance"? This looks like another Wall Street engineered disaster in the making, see 26 *infra*.

I suspect the SEC will do nothing with this. Why? It will require the SEC "lane drift". "Bank regulators, by contrast, sometimes view less transparency as helpful in fostering stability. One could argue that a full transparency approach would be more effective for bank regulation too, but rumble strips are warning me to stay in my lane", *Drifting*, 5. Sometimes? To protect investors, the SEC should "lane drift". Finance is the business most given to accounting chicanery. SEC Commissioners: have your seconds help you don your suits of armor, mount your big white horses and ready your 16-foot lances for combat. With? The Fed, OCC and FDIC. It is written, "No one can serve two masters, for either he will hate the one and love the other, or else he will be loyal to the one and despise the other. You cannot serve God and wealth", Matthew 6:24(NKJV). Or investors and the Fed.

"In contrast to micro-economics, macro-economics, with its focus on the aggregate and abstract theories, did not help me understand the world in which I lived", *Drifting*, 1.

Agree. In about 1982 or 1983 I read JMK's *General Theory of Employment, Interest and Money* (1936). I specifically recollect my copy was 365 pages. It seemed convoluted nonsense. On page 336 I realized: it was just recycled mercantilist fallacies. There is no "macro-economics", just measurement error. What is stimulus? Camouflaged capital consumption.

From a lesser-known JMK' book "Lenin was certainly right. There is no subtler, no surer means of overturning the existing basis of society than to debauch the currency. The process engages all the hidden forces of economic law on the side of destruction, and does it in a manner which not one man in a million is able to diagnose", *Quotes*. JMK was one of Hand's knaves, not a fool, my May 19, 2023 submission, 25, Item 141.

In 1933 one could give a bank a \$20 bill and get a \$20 gold piece containing .9675 ounces of gold. Ergo, the dollar-price of gold was \$20.672 per ounce, also the gold-dollar price was .048375 ounces per dollar. Today gold is \$2,327 per ounce or 112.57X the 1933 price, the gold-dollar price is .0004297 ounces per dollar or .00888 1933's price, thus down .99112 since 1933. One of the Fed's dual-mandates is to maintain price stability. It has failed, at least with respect to dollar-gold price stability. Will the SEC sue the Fed fraud? Don't Treasury bond investors deserve protection too? It's a \$34 trillion market.

Now a GW story. About 10 years ago, I read a preposterous Alan Blinder (AB) *Wall Street Journal* oped. I sent AB an e-mail questioning it. AB's response, "where did you get your PhD"? My answer, "I take your ad hominem attack on me as conceding my point. I am not one of your Princeton PhD students you can intimidate by failing me in my orals". AB did not respond. How insolent of me, to question a former Fed Vice Chairman. My **fifth-grade class** would have told AB: shame, ad hominem attack, argumetum ad veracundiam. Really!

Unfortunately, this type of response is increasingly common in Commission enforcement actions, imposing outsized penalties for minor violations risks creating a counter-productive dynamic between the Commission and regulated entities. When regulatory foot faults result in ever-steeper penalties that bear little relation to real-world harm, the perception that the Commission's penalty regime is more a tool to generate numbers for year-end statistics and less a means to achieve outcomes that enhance market integrity and investor protection begins to appear not unreasonable, *Forget*, 2.

Peirce and MU, I've said similar things since 1994. "It would not be surprising if the inordinate focus on technical compliance, as opposed to real-world harm, affects the way the public views the Commission's regulatory agenda", *Forget*, 2. If the SEC wants to better protect investors, it should bring say 70, not 700 EAs per year. Each EA a **blockbuster**! See my April 17, 2023 submission, 6-7, Item 134. I call this the PCAOB's fixation on "summary judgment type items", see 16 *supra*. The Lord High Executioner, my April 17, 2023 submission, 8-9, would **not** approve of this \$10 million penalty.

"On Wednesday morning, Wall Street Journal reporter Evan Gershkovich entered a Yekaterinburg courtroom at the start of his secret trial. ... In 2021, the judge now overseeing Gershkovich's trial told a local news outlet that he has only issued three or four acquittals in 21 years of service", *Shadowy*, A1. What was Michelle Cochran supposedly told, page 25, *infra*? "Acquittals in this court and others in the surrounding region are extremely rare: of the 22,500 criminal cases heard there last year, only 39 led to acquittal, according to a March press release from the court", *Shadowy*, A8. Or one in 577 cases. By June 28, 2024, the PCAOB had 445 settled, 27 adjudicated and the Reinhart case, 473 in all, with one SEC acquittal. The PCAOB-SEC "judicial system" has a 22% **higher acquittal rate** than Yekaterinburg's! "All [judges] will be under pressure to back the conclusions of the FSB investigation, because their jobs rely on having

the access to state secrets that is granted to them by the FSB, Pavlov said", *Shadowy*, A8. Ivan Pavlov was a Russian lawyer who left Russia in 2021, *Shadowy*, A8. "Former judges and prosecutors say the FSB often pressures judges to convict. ... 'It's **seldom that there are orders given to a judge, they just know what the right thing to do it**', the lawyer said", my emphasis, *Shadowy*, A8. See 19, *supra*. If your ALJs need new jobs, each can consider Yekaterinburg's criminal court. They only need learn Russian.

"'The weight of such a judgment in a particular case', the Court observed, would 'depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control', " *Loper*, 10, my December 30, 2023 submission, 12. *Chevron* "demands that courts mechanically afford binding deference to agency interpretations, including those that have been inconsistent over time", *Loper*, 21, my December 30, 2023 submission, 26-27.

"Does *Chevron* apply to agency interpretations of statutes imposing criminal penalties? Does *Chevron* displace the rule of lenity", *Loper*, 32, my December 30, 2023 submission, 28-29. "Under *Chevron*, a statutory ambiguity, ... becomes a license authorizing an agency to change positions as much as it likes, with 'unexplained inconsistency' being 'at most ... a reason for holding an interpretation to be ... arbitrary and capricious'," *Loper*, 33. The PCAOB has no hobgoblins, my December 30, 2023 submission, 26-27.

"Yet, replace 'magistrates' with 'bureaucrats, and Blackstone's fear becomes reality when courts employ *Chevron* deference. ... Instead, we resort to a far cruder heuristic: 'The reasonable bureaucrat always wins'," *Loper*, Gorsuch concurring, 19. Even in MBD's "court"?

"The ancient rule of lenity is still another of *Chevron's* victims. Since the founding, American courts have construed ambiguities in penal laws against the government and with lenity toward affected persons", *Loper*, Gorsuch concurring, 20, my December 30, 2023 submission, 28-29. "The presumption against retroactivity serves as guardian of the Constitution's promise of due process and its ban on ex post facto laws. ... Once more, however, *Chevron* deference can make so similar claim", *Loper*, Gorsuch concurring, 21, footnote 5, my April 5, 2022 submission, 7-8, Item 127 and my May 19, 2023 submission, 21, Item 141. "But ordinary people can do none of those things. They are the ones who suffer the worst kind of regulatory whiplash *Chevron* invites", *Loper*, Gorsuch concurring, 24. B4 good, non-BF bad. "But the VA had adopted a self-serving regulation requiring veterans to file a form asking for the resumption of their disability pay after a second (or subsequent) stint in active service", *Loper*, Gorsuch concurring, 24. An agency would **adopt a self-serving regulation**? Would the PCAOB?

"The decision is likely to involve the agency's subject-matter expertise; to fall within its sphere of regulatory experience; and to involve policy choices, including cost-benefit assessments", *Loper*, Kagan dissenting, 12-13. I see **no** PCAOB cost-benefit analysis.

"This case poses a straightforward question: whether the Seventh Amendment entitles a defendant to a jury trial when the SEC seeks civil penalties against him for securities fraud", *Jarkesy*, 6. "In this case, the **remedy is all but dispositive**. For respondents' alleged fraud, the SEC seeks civil penalties, a form of monetary relief. ... And while courts of equity could order a defendant to return unjustly obtained funds, only courts of law issued monetary penalties to 'punish culpable individuals'," my emphasis, *Jarkesy*, 9. I am culpable of not being a B4 partner, nothing more.




"The new law gave the SEC's Commissioners--the same officials who authorized the suit against Mr. Jarkesy--the power to preside over his case themselves and issue judgment. ... ALJs ... remain servants of the same master--the very agency tasked with prosecuting individuals like Mr. Jarkesy", *Jarkesy*, Gorsuch concurring, 2. "The numbers confirm as much: According to one report, during the period under study the SEC won about 90% of its contested in-house proceedings compared to 69% of its cases in court", *Jarkesy*, Gorsuch concurring, 3. I ran giga--calculartor using 69%, instead of the 61% at my December 30, 2023 submission, 10. Result, only one in 650 billion. "Reportedly, too, one of the SEC's handful of ALJs even warned individuals during settlement discussions that he had found defendants liable in every contested case and never once 'ruled aganst the agency's enforcement division'," *Jarkesy*, Gorsuch concurring, 3, page 22, *supra*. Might this encourage SEC and PCAOB lawyers to bring weak cases?

"Ho, 52 years old, is one of only three board members ever to vote against a proposed rule. ... An auditor by training, Ho says the accounting profession has room for improvement, but she opposed requirements that she says don't boost the quality of audits. Her fellow board members tend to favor tighter requirments than she does", *Lone*, B3. I have said for over 40 years, the "auditing problem" is not requirements, but incentives. I see nothing "tighter" in any new PCAOB rule, just more useless paperwork. "With one exception, no board members have joined Ho in her dissents to date", *Lone*, B3. So who needs them? At best, they haven't a clue what ails a third-party certification business, at worst the PCAOB Commissioners are just sinecurists.

Did the SEC yet conclude 72 is more than 60? Has your resident CPA, Paul Munter an opinion on this? Or can this be judicially noticed?

"From no later than March 2016 until at least November 2019 ... Defendants operated an offshore broker-dealer in the Bahamas designed to help day traders in the United States circumvent the U.S. rules that regulate pattern day trading", *Mintbroker*, P 1. "In March 2016, Gentile was indicted in ... *U.S. v. Gentile*, Case No. 16-00155 (D.N.J., 2016), and the case was ultimately dismissed on **statute of limitations** grounds", my emphasis, *Mintbroker*, P 19.

"For example, SureTrader required U.S. customers to sign an "Unsolicited Acknowledgement Agreement," ('UAA') through which they affirmed that had not been solicited. Gentile implemented the UAA requirement for U.S. customers in an attempt to circumvent federal securities laws", *Mintbroker*, P 80. "The pop-up window was nothing but window dressing", *Mintbroker*, P 85. See 20 *supra* on the bank risk transfers, also my April 5, 2022 submission, 7, Item 127 and my April 17, 2023 submission, 21, Item 134. *Mintbroker* was filed March 22, 2021. Is there a reason the relevant period began in March 2016? 2021 - 2016 = 5. Coincidence? I don't think so.

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George Weinbaum

**CERTIFICATE OF SERVICE**

I, George Weinbaum certify that today, July 5, 2024, I mailed you three copies of my July 5, 2024 brief in Admin Proc. File 3-21841. I also filed the brief by e-mail to <https://www.sec.gov/eFAP>. I filed the brief with the PCAOB by e-mail and on paper. I also filed with the PCAOB by e-mail and on paper my June 4, 2024 brief

My word processor generated a word count including the front tables and identifiers of 7,840.

A black rectangular redaction box covering the signature of George Weinbaum.

George Weinbaum