

WILLFUL IGNORANCE

After agreeing to write about an example of aiding, abetting, and enabling in this country, or in a marriage, or even during childhood, I quickly realized the problem would not be selecting what to write about, but what not to write about. Since then I have noticed abettors in action almost every day.

A prominent candidate is the plight of the poor, pitiful, Madoff investors. All the hoodwinked, widows and orphans who understood it was not polite to ask Bernie how he produced a steady 12% return year after year, even in years when the market was down 40%. Perhaps the investors winked while in Bernie's hood. Assuming that no one in this room could ever be Ponzied, so I looked further. But perhaps I should test my assumption.

If the following investor traits describe any of you, please stand up:

The best part of the investment was that you were admitted to Palm Beach Bernie's inner circle; you were content to receive 1099s from an accountant you had never heard of; you did not think it necessary to understand the nature of the investment, or receive statements, other than that it was a proprietary strategy using derivative straddle hedges (now there's a real collar); as a trustee of a private foundation you understand that you could request a better return — say 18% — rather than 12% in any given year. Stanley Chais did just that for the Picower Foundation.

I was right! No one standing. So I leave the Madoff investors with little sympathy and a "good luck" on dodging the coming clawback.

The next enablement about which I will not write was detailed in the litigation

from which I poached the title to this paper. I hope the recounting won't defame Yale University or upset any of its alumni. But, as Fox likes to say, "We report, you decide." Decide what? Whether Yale has passed the smell test. Whether the fight song should be "Foola, Foola" rather than "Boola, Boola."

In March, 2009, Yale went to court to protect its rights to the painting, "The Night to Save," and to block a descendant of the original owner from claiming it. Ivan Morazov bought the Van Gogh masterpiece in 1908. Russia "nationalized" the painting during the Communist Revolution. The painting, which the Communists later sold, has been hanging in the Yale University Art Gallery for 50 years.

Pierre Konowaloff, great-grandson of the industrialist Morazov, has filed a suit calling Yale's acquisition of the painting "art laundering," arguing the Russian authorities unlawfully confiscated the painting and that the United States deemed the theft a violation of international law.

Bulldog Stephen Carlton Clark left Yale the painting in his will. Yale says that Clark bought the painting from a gallery in New York City in 1933. Konowaloff says that Clark knew of the painting's ownership history when he bought it, and that Yale engaged in a policy of "willful ignorance" when it accepted the piece in 1961.

And what response from the Bulldogs? Not that the painting had not belonged to Morazov; not that the painting had not been confiscated during the Revolution; not that Alumnus Clark did not know the provenance; and not that title had been cleansed by Probate. No, Yale claims that invalidating title to the painting would set U.S. Courts at odds with the Russian government, and cloud title to at least \$20 billion of art in global commerce. Will all here who are current or past trustees of Yale stand up and rebut?

Seeing none, I move to the next enablement about which I will not write.

In the news — January 6, 2010. A 513 pound bluefin tuna sold for \$177,000 at an auction Tuesday at the world's largest wholesale fish market in Japan. The gargantuan tuna was bought and shared by the owners of two Japanese sushi restaurants. Do you know how long it takes a bluefin tuna to grow that big? Do you know how many such giants are left? Do you care? The point is, when you eat bluefin sashimi, you are probably aiding in its extinction. So why shouldn't this be my main topic? Because there is no subterfuge involved. You know what you are eating. You may not have realized the consequence of downing that purple slice of raw flesh swiped with wasabe and ginger, but you knew the correct name of what you ate. You may not know that the breeding stock is declining rapidly or that capture of the remaining giants has been accelerated by technology. Satellites and honing devices have changed the verb from fishing to catching.

So, let's talk about enabling you do - albeit unknowingly. Before 1977, no one in this room had ever eaten the oily flesh of the Patagonian toothfish. As of today most of you have, with great relish and at lobster-like prices, eaten it - maybe even tonight. Until this moment, (but not hereafter), you have been innocent enablers because you did not know that Patagonian toothfish is the real name of what you see on the menus as "Chilean Sea Bass." You are thinking. Am I to be subjected to a harangue? Does the writer belong to some prehistoric club that grieves the loss of dinosaurs? Well, this Club is happily edging toward prehistoric status, but this is not a sermon, merely a recounting the story told in Bruce Knecht's book *Hooked* of how one person, single-handedly, created a market for toothfish which has grown so large that at the present

rate of consumption, it is doomed to extinction.

In Valparaiso, Chile, in 1977, Lee Lantz, a young fish merchant from Los Angeles, walked the decks of the fishing boats at Chile's largest port. The key to his business was to find new things to sell. That day he saw nothing but Congria, which he began importing to the United States several years earlier. Then he spotted — a large, ugly, black-grey fish with a protruding lower jaw studded with pointed teeth. Close to five feet in length, it weighed well over 100 pounds. Eduardo Neef, who owned the plant that processed the Congria, explained that fishermen had never seen the fish until they started using deep water long lines a few years earlier. They called it *Bacalao de Profundidad* — cod of the deep. Neef explained that no one knew what to do with these accidental catches because the fish was too oily to eat. Lantz asked a counter man to cut into the fish to expose its flesh. It was white and extremely oily, looking as though it had been marinated.

Lantz bought a few pieces which soon found their way into a frying pan with a small amount of cooking oil. He was amazed by the amount of water the fish released as it sizzled in the pan. He worried about what that would mean to its texture, what chefs called “mouth feel.” He tasted it. Surprise and some disappointment. Whereas most big fish had a lot of flavor, this one had almost none. But, on second thought, he realized that just because of the fish’s blandness, it was perfect for the American market. It had a texture similar to Atlantic Cod’s, the richness of tuna, the innocuous mild flavor of a flounder, and a fat content that made it feel almost buttery in the mouth.

He knew that a white-fleshed fish that almost melted in your mouth and did not taste “fishy” would be a winner. He also knew he could not sell Americans something called *bacalao de profundidad*. He did not know its real name — Patagonian toothfish. Why not call it some kind of bass? While toothfish are not bass, they do have similar white flaky flesh. His initial ideas were “Pacific Sea Bass” and “South American Sea Bass,” but settled on the more exotic-sounding “Chilean Sea Bass.” The main market of this inexpensive product became Cantonese-style restaurants in California.

Rick Moonen, a top seafood chef at Oceana in New York, didn’t discover toothfish until 1998. Inspired by a Japanese style of cooking known as miso zuke yake, he first covered a toothfish filet in salt and left it to partially cure overnight. By drawing out the moisture, the salt made the fish firmer and flakier. It also concentrated the fish’s own

flavor. The next day Moonen rinsed the salt away and submerged the filet in a mix of miso (a fermented paste of soybeans and rice or barley), oranges, and a rice wine-based sweetener. Two days later he cooked the fish under an intense broiler which caused the sugar in the miso coating to caramelize.

The flavor that resulted was a rich, perfect mix of salt and sweet. The texture was also balanced. The outside was crisp but the rest, which separated into thick flakes, was as succulent as foie gras. Moonen placed the filet on stir fried vegetables and lined the edge of the plate with mango. The sweetness of the mango mirrored the fish almost perfectly. Moonen described the dish. "Think of eating a perfectly ripened mango — that's exactly what it is like to eat the fish." Oceana's customers loved it, making it the restaurant's top selling item. "It's bulletproof," Moonen said. "You can cook it hours before you need it and re-warm it without harming its flavor or texture." Everyone had to have it. "It became a goldrush."

Barely a year later, Moonen discovered a huge problem with his creation. It remained Oceana's best selling dish, but his supplier increasingly did not have any toothfish to sell. When he did, they weighed only 15 to 20 pounds, far less than the 50 to 80 pound fish he had delivered not much more than a year earlier. It was not difficult to guess the reason: Given its exploding popularity, fishermen had caught so many fully grown toothfish that they were now working their way through juvenile populations.

Moonen had seen the same thing happen with swordfish. The average size of swordfish captured in the North Atlantic had fallen from 260 pounds in the 1960's to about 100 pounds two decades later. By then, most of the fish that were being taken

were so young, they had not had a chance to reproduce. Except that the toothfish takes even longer to grow to reproducing size. Toothfish are caught anywhere from half a mile to a mile deep on long lines. The smaller fish are dead or fatally damaged by the time they are brought to the surface and taken off the hook so they can't be thrown back.

So, where does this story end? There may be time to keep the toothfish from becoming a do.do bird. Did you ever read the "Milo" books yourselves, or to your children? Marcus Fister wrote two of them with alternate endings — one happy, and one sad. Let's Fisterize this story:

Sad ending: with willful ignorance we say to ourselves - — too bad about the toothfish, but nothing is forever. What good would it do for one person to stop eating toothfish? And, after learning the situation, I will order it more often to enjoy my fair share before it's gone.

Happy ending: each of us, first thing tomorrow, tells ten others the truth about Chilean Sea Bass (You have my permission to attach a copy of this paper) and requests that they stop eating it, and tell ten other people, and so on. Also, suggest that everyone ask the manager of their clubs and restaurants to take it off the menu, or at least be truthful and list it as Patagonian Toothfish with a footnote, of course: "Supply is limited."

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