



Black Shadows

Conrad Black's trial begins; policing the behaviour of bosses can prove to be a costly business.

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Trials of the century have become an annual event in the business world, thanks to America's wave of corporate scandals. But the trial of Conrad Black, which began in Chicago on Wednesday March 14th, may actually merit that title, at least judged as spectacle. On show will be an epic cast, led by his Lordship, a former media baron accused (with three other executives) of looting his company, Hollinger, which once owned Britain's *Daily Telegraph* and the *Chicago Sun-Times*.

Witnesses are expected to include Henry Kissinger; Donald Trump; Barbara Amiel, Lord Black's wife; and his former business partner, David Radler, who will testify against him. The \$42,870 of Hollinger's cash splashed on Lady Black's birthday party is one of the main examples of the assets allegedly looted thanks to Lord Black's dominance over his company. The prosecution will be overseen by Patrick Fitzgerald, fresh from his successful pursuit of obstruction charges against Lewis "Scooter" Libby. Last year People magazine called Mr Fitzgerald one of America's most eligible bachelors.

If Lord Black is convicted, he could face up to 95 years in jail. His lawyer, Edward "Fast Eddie" Greenspan, is likely to argue that most of the expenditures described as looting were approved by Hollinger's board, the members of which now claim to have been misled. Ominously, Dennis Kozlowski, Tyco's former boss, also said his board had approved his lavish spending. He is now serving up to 25 years in jail.

Lord Black's defenders argue that the cure has been worse for Hollinger's shareholders than the disease — though prosecutors would no doubt retort that breaking the law deserves punishment regardless. Sorting things out after his departure cost a fortune: the \$200m cost of investigations far exceeds the sum taken in the alleged "corporate kleptocracy".

The mutterings about disproportionate punishment are even louder in options backdating, the other corporate scandal of the moment. Over 140 firms have been embroiled and 70 executives have lost their jobs. Firms granting share options to employees stand accused of picking dates with particularly favourable prices. The latest twist is that some firms may have backdated options to take advantage of the plunge in share prices after the terrorist attacks of September 11th 2001, seemingly exploiting a national crisis.

Although there may be nothing illegal about backdating *per se*, failure to disclose it or properly account for it may constitute fraud. UnitedHealth Group, one of the first big firms embroiled in the scandal, last week restated its profits down by \$1.55 billion over a 12-year period as a result. Last year the scandal claimed the job of its boss, William McGuire. There is speculation that Steve Jobs of Apple will be the prosecutors' next high-profile target. The board has cleared him of any wrongdoing, but admits some backdating did take place. A prosecution could prove hugely costly to Apple's shareholders, the main victims of any backdating.

The Securities and Exchange Commission is struggling to find the punishment to fit the crime. Commissioners have been deadlocked for months over whether to ratify a proposed \$7m settlement with Brocade Communications, which is supposed to be the template for other fines. California's prosecutors seem to have discovered a sense of proportion, however. On March 14th all charges were dropped against Patricia Dunn, the former chairman of Hewlett-Packard, over her role in the boardroom spying scandal that shook the computer firm last year. The serious charges against three other defendants were also dropped, after they agreed to plead guilty to minor misdemeanours and do community service. So at least one trial of the century has been avoided.

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