



## Fox Rothschild Podcast

### The Presumption of Innocence

#### Episode 73: The Fraud Whisperer: A Journey From Hedge Fund Hustler to Corporate Risk Adviser

*Featuring Matt Adams of Fox Rothschild and Mark Varacchi*

**Matt:** Welcome back to "The Presumption of Innocence," a podcast brought to you by the White-Collar Criminal Defense and Regulatory Compliance Practice at Fox Rothschild. I'm your host Matt Adams and our guest today had it all: personal and professional success in the financial markets as a private equity COO. But all that came crashing down on him, however, under the combined weight of the Department of Justice and an SEC enforcement action. In the blink of an eye, he went from the uppity social circles of suburban Connecticut hedge fund elites and the intoxicating nature of Wall Street's success to a cell at FCI Otisville as a prison inmate, convicted of federal criminal offenses. On the other side of that downfall now, however, he is reinventing himself by helping individuals and entities build out systems and processes for organizations that help identify and prevent the very type of conduct that landed him in federal prison.

Our guest on today's program is Mark Varacchi. Mark, welcome to "The Presumption of Innocence."

**Mark:** Matt, thank you so much and thank you to Fox Rothschild for being able to come in here and chat with you today.

**Matt:** So Mark, let's start your story at the obvious place, right. Tell us about your former career up to the downfall that I previewed in the introduction that's brought you this newfound perspective on this unique compliance niche that you're developing.

**Mark:** I started at my career at a fairly celebrated hedge fund named Tiger Management, which in its day was probably one of the top funds of its type in the long-short space. Of all the fraud that I've viewed in ethics violations throughout my 20, 25 years that I kind of learned from and, and, and touched on, Tiger wasn't one of the ones that I, that I really saw that go on. But then it was all, as I like to say, it, it all was a little bit downhill from there.

**Matt:** So what do you mean where, where'd you go and what do you attribute the downfall to other than the ultimate trajectory? When did your ethical compass, you feel it start weakening? Because that, that's a very profound statement that down, it was all downhill from there. That, is that a ex post facto view of what ultimately your trajectory, uh, was towards federal prison? Or is that you could feel that as you left sort of the nobility of that first organization, you had a lesser feeling about compliance and ethics?



**Mark:** No, I, I don't think it was, that was for me personally. I don't think stepping over the threshold at Tiger put me in, in the ability to, uh, exert any type of evil or duplicitous powers that I had. I think more what I'm saying is that the industry in general, and when you're in that atmosphere in finance, that, the gray area, uh, whether small, medium or large grows.

And look, when you talk about people that end up, you know, you throw someone on an island somewhere, you throw someone in a different country and they live there for two years, you start to absorb and take on a lot of the culture and a lot of the aspects of where you're living.

**Matt:** So set the stage for us. Set the stage for us. What is the year and what is the culture that you refer after your first foray into these financial services firms?

**Mark:** Well, uh, let's just say there are so many different aspects of, uh, of ethics, right, and integrity. And risk parameters are something, there are a lot of things that are not necessarily seen. In the hedge fund industry, most of the reporting was not necessarily live at that time, right? If you're an investor, you give a hedge fund money, and monthly you get a letter-- basically a week or two after the end of the month-- letting them know the returns and the portfolio manager would let you know how they're doing. During that month, even though you have risk parameters, a lot of gray area would be crossed. Meaning, if certain managers were only allowed to have a no bigger than a 7% position in any stock, I will tell you that during the month, in the middle of the month, clearly those rules would be violated. There would be a lot of risk rules violated that, as long as it didn't blow up the fund, would never be found because the snapshot that the managers are looking or giving to the investors is the snapshot at 4 p.m. on the last day of the calendar month.

**Matt:** So they had some time to fix it.

**Mark:** They had time to fix it, they got it back by the end of the month, they would re-steer the boat back on course.

**Matt:** Until they didn't.

**Mark:** Correct. I mean, if there was earnings and they wanted to take a, a bigger bet because they felt like they really had a good conviction on a position, they would do certain things in order to make sure they had exposure. That really, like I said, at the end of the month, usually the portfolio doesn't look like it does during the week, in the middle of the month during earning season.

**Matt:** Alright, so you're, you're in this climate where the rules are beginning to feel malleable. You leave your first shop. Where do you head next? And, and bring us up to the point of your career where the character arc takes a dive.

**Mark:** Well, I, I, I, I stayed in the long short equity space, right? So you're dealing with analysts, you're dealing with portfolio managers. I happened as kind of a, second person in a, uh, startup fund, although we had, you know, a couple of hundred million dollars, uh, to start. I sat on the desk at Galleon, which was the largest insider trading case of its time. Of which, you know, Raj Rajaratnam was convicted and there were a couple of different veins there.



Now, I left there --and I actually sat on their trading desk for two years-- I left there before these issues happened. Um, but what I can say is, is that as you are going through the process, when you're part of it, some of it becomes what the day-to-day is. It becomes regular. So you don't realize, that you think that what you're doing is part of team play. You don't think that what you're doing is, uh, you know, you against the laws, you against ethics and you against the world. When it's everybody there that is kind of doing it, like I said, it becomes acceptable and that line is easier to move forward.

I'm gonna be very honest. When I got in trouble, I leapt over that line with two feet.

**Matt:** Is it group think? Is it, is it just this notion of everybody bends the rules so the rules don't exist?

**Mark:** I will say that there are always people, uh, in those offices and on those desks that would claim and, and would kind of try to stick to kind of a Boy Scout mantra. What I will say is that information being shared, I will say, insider information, and again, you, you, you've probably seen this as more than I have on the side of people getting caught. But to me it was a very tough thing to prove. Everybody is talking about their positions and rumors were rampant, right?

When I was in the industry, Steve Cohen and his desk at SAC were amazing at disseminating information. Whether it was truthful or not truthful, if one of his people called somebody and said something was happening, they could move markets based on the fact that that phone call, just like playing that telegram game when you're a little kid, by the time four calls were made, you could have four or five big trading desks all making a move based on what they heard coming from the horse's mouth. That's not insider trading, right? That's manipulating markets. But either way, knowing whether that information is true or not and came from a source that would be deemed as not illegal was really, really a, a, a weird gray area in those days.

And a lot of people, when you say group think, share information in the hedge fund industry. And I, I mean, I look at positions now and I'm looking at NVIDIA and some of these larger stocks that they have. When there's an issue and you have this much leverage and this many people in a crowded trade, you have to be careful. And everybody wants to be first when it's time to go to the exits. I think we're gonna find some interesting things going on in the industry in general, just because a lot of people are in the same names.

And when I was back in my day, it was, you know, it was the, the, what they would call the FANG stocks, right? It was the Facebook, it was Apple, it was Netflix and Google, right? FANG. Now they have new acronyms for all the names of which Nvidia is now in there. They take some out. But the industry in general works on a gray area. The good news is that transparency has now become a little bit more commonplace. Investors are now being allowed to see their positions almost real time when they have enough money to demand that.

**Matt:** So you leave your roots. You, you start to hop around and make your bones in the hedge fund industry, as they say. And, you land at Sentinel Growth Fund Management and, and co-found, uh, that organization in Connecticut. And this is, this is sort of your final chapter in the industry. What



brought you down? I, I, I did not bury the lead here. I, I've led from the outset that you did find yourself in the crosshairs of the Department of Justice and the SEC.

You've sort of painted a picture for us of the buildup of your career, that crescendo of everybody sort of -- or at least a lot of people in the industry -- sort of getting away with the ones and twos, the small ethical legal deviations. And then, you know, the whole thing blows up for you when you start your own shop.

So talk to us about what brought you down.

**Mark:** Look, you know, if we don't use words like, uh, you know, greed and things like that, I think it wouldn't be, you know, doing it justice. But at the end of the day, uh, we had some good things going on at Sentinel. It was not set out in order to, you know, do what we ended up doing. But, uh, we had, uh, one great strategy and, and a bunch of not-so-great strategies and, and managers on the platform. Everybody wanted to put their money into the one thing that seemed to be our unbelievable smart cash cow. And if we had kept it small, we'd probably still be around and have made enough money to, uh, have a very comfortable life.

Instead, when a lot of big guys started throwing big dollars and said, I only want to be here, instead of diluting the returns of which more money didn't make better returns in this strategy. You actually had to build it in a way where you needed multiple managers to act on this strategy. We decided to take the money anyway, and we decided that we were gonna put it in areas where hopefully we could match the performance by putting into private equity.

And when you do that, that money is not liquid, right? It's not like you can go do a trade, get out of it into cash when you give money to an entity that's building. But as the money was off the platform and people were wondering if I had all the assets I had, as soon as it seemed like the SEC was sniffing around, every company that we gave money to said they were insolvent. And that money disappeared. And that's stealing. Giving money to somebody else where you've told your investors that it was gonna be in your right pocket and then instead in putting in somebody else's pocket is the illegality, okay. And we paid ourselves during that time, and, you know, created statements to make it seem like the money was always there.

**Matt:** What kind of industries were you investing in? Were these high risk industries? High, high reward? Were they stalwarts that just became victim of a, a bad, uh, economic downturn? What kind of industries were you dabbling in with the private equity?

**Mark:** What I will say is, whether these guys were successful or not, as soon as they heard that maybe that they had a free roll or didn't need to return the money, they all acted like they were gonna go out of business because they figured that we didn't have the wherewithal to chase them.

But it was diversified. It was in everything from cannabis to gaming software to, you know, more traditional long-term private equity. But they were all startup enough. But look, we were looking for a five to 10x return, right? And it wasn't where it was supposed to be. So at the end of the day, when everybody decided they weren't gonna give that money back, that immediately goes on our ledger.



And that's our, that's our loss. That's part of our crime. You know, in the numbers that are thrown around, it wasn't that we, uh, we put it in our pockets, but we put it into somebody else's pockets, which is just as bad.

**Matt:** With the expectation that you were going to make a separate set of profits, separate and apart from the trading you were allegedly doing while materially misrepresenting what the investors were giving you money for.

**Mark:** Well, you know, everybody knows that, that, uh, even though I'm not a fan of that broad triangle, that rationalization, acting like you're gonna make money for everybody is usually what keeps people that are stealing money keeping themselves and allowing them to get to sleep at night. It's saying, when I could do this and when this is successful, everybody's gonna make money. I'm not as bad as this makes it seem.

And that's just, you know, people kind of psychologically fooling themselves while they're conducting the fraud that they're conducting at the time.

**Matt:** So this is a complex white-collar crime. How do you get caught? How did this downward trajectory begin? Talk to me about the day that you found out, you know, your life is, is coming crashing down because the hammer of the government is about to drop.

**Mark:** So we definitely had some investors that had been sniffing around for a while and doing different things in order to try to, uh, you know, see if we would disclose, uh, what was going on. But there was one day-- and you know, if you're a hedge fund manager and you look down at the caller ID and it's the SEC in Boston, it's never a great call and you never want to pick up that phone. So I did know the SEC was sniffing around. And we had been talking for a while to come clean.

It was, you know, two or three years of, of kind of-- you know, uh, nobody needs to feel bad for me at the time or anybody else-- but it was, uh, it was, it was agony. It wasn't something that made for a pleasant day every day. And I, I use the analogy is, uh, it felt like kind of waking up and lighting, you know, dipping three tennis balls in gasoline, juggling them and then walking waist high into a pool of gasoline. You were always waiting for a ball to drop. And it was all gonna end. And that went on for 18 months before the actual end, which doesn't make for a great 18 months. And the decision was to actually go and disclose, and, uh, let the SDNY know what was going on.

It was originally a plan that there was gonna be multiple people going, and then the determination was that nobody wanted to go or let their family know what was going on. So I went. And, uh, you know, that was the beginning of the end, and allowed me to get here, is that we actually went to them. I didn't have my door kicked in. They didn't necessarily come from me. You know, I had a good set of attorneys and, uh, they gave me a couple of different choices and I, I think there were different paths to go and I chose the correct path, you know, from the get-go, and I'm very happy with my decision.



Could it have gone longer? Probably but not much. So I don't wanna make it seem like I had a total, uh, epiphany. I could feel the, we all knew the walls were closing in. But we did go before anything official in any official capacity had happened.

**Matt:** How, how, how did you know the walls were closing in? Because a lot of people get in denial when the initial subpoenas drop, when the initial investigative inquiries start happening, when the feds literally show up at the door, I've had some clients still be in denial. What was it for you?

**Mark:** Well, there was gonna be no mental rationalization as to whether it could be black or it could be white, right?

We knew we had money in places that we shouldn't. Uh, we knew that these guys weren't near-term successful and couldn't give the money back to us to even do anything in a normal way. Once you move that money over the borders, whether it comes back or not, you've still broken the law.

So, you know, enough people sniffing around, enough people starting to kind of complain. And again, as the asset level is lower-- and we were still running a multi-manager platform with normal business-- the juggling from an operational standpoint that I had to do, I took a lot of rules that were given to me and, you know, industry processes. And I used the rules that they had in my favor to make it seem like that our assets were a lot more than they were to the whole world, including our banks and our custodians.

**Matt:** Tell us specifically what you did. Tell us specifically what you did.

**Mark:** Sure.

**Matt:** There, there are crimes for which you've already pled guilty and allocated to.

**Mark:** A hundred percent. There's nothing new. But I will tell you, you know, as we go forward in this conversation to talk about a little bit about compliance, no one ever sat me down and said, Mark, how'd you make the sausage? The SEC never said, can we find out exactly what's going on so we can go prevent it?

**Matt:** Until me, until me.

**Mark:** Until you, that's it. You're the guy.

**Matt:** This is the, this is the anatomy of a Ponzi scheme.

**Mark:** No, it, look of a financial, you know what I mean, of a financial hedge fund, Ponzi scheme. So I'll give you a couple rules and I'll give you how I use them to my advantage.

There's probably two big ones. There are days when you're in and you're doing trading. Obviously everybody's heard about and there are movies made about it, about a margin call, right? And that's when you're borrowing money in your position, so you're using what they call leverage. And if the stock goes down a certain point, obviously no bank that lends you money is gonna lose their money.



So you have to add more money once you start losing that extra money in order to make sure that your money is the one at risk. Okay? But they'll lend you 2, 3, 4, to one on whatever assets you have there.

During the day when you're trading, there's also what's called day trading. So I realized that there were points where, say we just made a mistake. If I ever made a mistake, and it caused the bank to realize that they were losing their money at six o'clock in the morning, alarms would be going off and I'd be getting calls from all over the world saying, what happened, somehow everything in red is showing on my screens. I would go into it and say, guys, we bought a stock yesterday. Instead of booking it at a hundred, we booked it at 10,000 by accident. It's showing an artificial loss. What do you guys, like, we're gonna change it. And they would go, okay. When they were losing their money, they were very active. And then at the end of that correction where they realized that the money wasn't a real loss, I would say, do you wanna rerun the reports so we can see it? And they're like, nope, we're good. I always thought that was weird that they didn't wanna rerun the reports.

Then I realized that when we made a mistake in our favor, nobody cared because I wasn't losing their money. So when it came to the point that we were doing things that were not good and we needed assets, or say I knew there was gonna be a huge day of IPOs and secondaries on Monday, and this is Thursday, I knew that I could create a mistake in my favor. And at that time, the settlement for stocks was called T+3, meaning if you trade something today, it will not settle and that cash does not change hands for three days. So you have three days to correct your mistakes.

But essentially I would make large mistakes in my favor that I would keep on the books for two days to allow me to do whatever trading I needed because of the assets I didn't have. And when it was time to finally correct that trade, I would correct that trade and I would create a new one that would start their new T+3. And I went through weeks and even months where I always had an extra \$12 or \$15 million in my account because I would create breaks. But because it gave me money and didn't take their money, they didn't pay attention to it. They only paid attention when I created a loss, not when I created a gain. So that's one way that I circumvented all the bank systems because, again, there were people who were probably sitting there at the desk that should have noticed. But I would create a lot of other smaller breaks as kind of a camouflage and subterfuge where the one big break, again, it would be one of say, 15 breaks for that day.

And then I would correct eight, make eight new ones, but keep the big one on the books. And then the next day, if it seemed like they were kind of noticing it, I would correct that one and I would just create a new one in my trading that day that would be fresh the next day. That's number one. And that's when I needed assets, of which when you're taking assets from the platform, you always need extra assets.

Another one is, I used what's called time and tick. And if you're not familiar with time and tick, risk obviously is what all of the brokers that are settling trades look at. So when you create a trade, they also look at the assets you have and determine-- especially when I only had, when people thought I had \$50 million on the platform and I only had four-- I needed to do a larger trade. If I did a trade that was above, a certain amount of risk, like say I wanted to buy \$30 million of Apple, that would create an issue because the risk would be too large compared to the assets on the platform. So what



I would do is I would have my traders trade that trade with the street, but I would break that \$30 million into 10 different trades of \$3 million, a buy and a sell. Because I did the buy and, and then even if I didn't do the sell till late in the day, I would open and close that \$3 million trade at the same time at the end of the day. So I would book a buy and a sell of \$3 million. Now there's no risk. A buy and a sell of \$3 million. Now there's no risk, right? The buy is an opening of \$3 million in risk that could go to zero. But once I sell it, now there's no risk. So I would separate larger trades into tiny ones, and because that also paid extra commissions to the people that I was doing it with, no one ever corrected me. It would've been much easier to do a buy of \$30 million and a sell of \$30 million. They didn't know the reason I was doing it was to not be able to trigger something because I only had a couple of million dollars on the platform.

So again, the frontline defense and the customer-facing employees are really, really important in compliance. And that's kind of what I talk about, is that sometimes when you're paying a firm, I will say for the assets I had under management, I paid an inordinate amount of commissions. And that helped me and it also helped people give me the benefit of the doubt where they didn't correct me because if they corrected me, they would've made less. So they--

**Matt:** You were their best customer.

**Mark:** I was, I wasn't, look, I wasn't, you know, Steve Cohen at SAC, I didn't pay \$50 million in year in commissions, but for my dollar amount, I paid them amount. And at the end of the day, I think that helped me because some of the situations that I needed to use to mask the amount of assets I had paid them more commissions. Because to me, a good person facing me would say, Hey, Mark, I know we make more money, but isn't it easier for you to just book a buy and a sell of \$30 as opposed to a buy and a sell of three 10 times and have 20 ticket charges instead of two ticket charges? Nobody ever came to me and tried to do the right thing, correcting it by accident, let alone looking at it and saying, there's gotta be a weird reason why he's doing this.

**Matt:** On, on its face, right?

**Mark:** Yeah.

**Matt:** It's, it's, you're spending more money. It's like going into the grocery store and saying, I'd like a dozen bananas, but instead of spending, you know, the whatever a dozen bananas costs, call it inflation, 10 bucks, right? Um, you're saying, no, you know what? I wanna pay two bucks a banana.

**Mark:** Right.

**Matt:** And I prefer--

**Mark:** No one would --

**Matt:** I prefer to do that.

**Mark:** Yeah. No one wanted to know. No one dug. I think any kind of smart, inquisitive person, which are the people who should be in those seats, should have been able to figure that out. But I used



those rules to my advantage at the times that I needed them. And I used them, uh, you know, I used them frequently.

**Matt:** So we're hearing this story of you, uh, intentionally manipulating the rhythm, pattern and method of your trades to commit this elaborate fraud because your investors don't know that you've taken their money and they're, you're using it for this other purpose, thinking that you're gonna double it all back one day and, and ride off as this exceedingly wealthy person. None of that ended up coming true.

So as not to glorify that conduct, what was the anxiety like when you were sort of flying by the seat of your pants --is one phrase that comes to mind --with this highly irregular, erratic, risky trading behavior?

**Mark:** Yeah, there's no joy in Mudville. As as, as you're doing it, obviously you can't let your guard down. You can't take time off. You have to be on time and be on top of everything, 'cause every day is its own mini Super Bowl, as I like to say. And you can't drop a ball because that may give a red flag or some type of flag to someone to question something, right? So every email, you cringe. Every time you hear the email go bling I would look at it and hope it wasn't something that was gonna be the beginning of the end.

Every phone call you make, you have to make sure that you don't make any extra mistakes, right? So you're already doing things outside the box, but you need to make sure that you don't do something that puts the headlights on you for a reason you don't want there, right?

So we had to coordinate all of that. Sometimes calls were coming in and you know, like I said, for me, it was, it was that, and it was kind of a, a, a game theory. Like I had investors say, I want my money. And these were people who were making money with me in this scheme the whole time, right. So they didn't know, but they thought they knew. And when I turned it around on the phone call with them and would say, would act like I wanted them to get, like, I was giving them their money back as soon as possible, intimating that something good was coming, they would call me back the next day and say that they decided not to take their money. Like I would act like I couldn't wait to get them their money back. I'm like, as a matter of fact, we don't have to wait till the end of the month. I'll have your money on Wednesday. I have other people who wanna get in. I have things going on next week. I'll get you your money by Wednesday, no problem. But I, you know, appreciate you as an investor, gotta go.

And three outta three times. I got a call the next day saying. Mark, we rethought it. We wanna, we wanna stay in there with you.

**Matt:** Wow. The amount of stress and pressure that you must have faced while living this duplicitous life must have been just enormous.

We've gone full circle. We've talked about the systems and processes that allowed for you to commit your crimes. And I wanna go to the happy ending now. I wanna go to the, what you're doing today to build on your experience and take it to the next step to help other organizations and institutions



stay on the straight and narrow and to ferret out bad actors within their organizations that might be doing the same things you used to do.

It's, it's seldom in sort of these legal and compliance circles that we get to actually go in and look at how that sausage is made. It's, it's usual that somebody will get caught and that there will be an act or acts that still remains undetected, but they got snagged 'cause they got sloppy or they, they did something.

How is it that you're now helping organizations go in and try to prevent the type of reputational, legal risk and harm that, frankly, you and your co-conspirators caused to Sentinel?

**Mark:** I think you hit it on the head there, is that most guys catch themselves, okay? Most guys make a mistake, put in a bad entry, get greedy and do something where blatantly, anybody could have caught them at the time that they get caught.

**Matt:** And, and it's a discreet, it's a snapshot in time and there could have been other events that just kind of fall off the radar and get buried under the rug.

**Mark:** Yeah. But I found-- and I don't like to, you know, it's always uplifting using a, a cancer analogy-- but I always feel like the focus is on the aftermath and treatment, not on prevention. And in fraud prevention, the reason why it's that is prevention needs to be the focus. And I think that they come at it all, all wrong. I mean, look, even if you're a chief compliance officer, you're at a very high level. There may be three layers of humans below you, right? And I think that from the get-go, those hires and those people that ignored me and were facing me, but were young men and women, I just don't think the, they're making these spots instead of being celebrated. I guess the best way to me, for me to say it is building operations and hedge funds my whole career, some people didn't get the fact that if my lowest level, entry-level employee that's doing reconciliations like a, a, like a troll in a office ticking and tying numbers for their first five hours a day, doesn't do their job for two days, that it could take down the biggest hedge fund, right?

So some people need to realize that those frontline seats need to be celebrated, need to be paid accordingly. And they need to treat those seats not as a steppingstone to be from, but a seat to be in that is part of the organization. They don't generate revenue, but they can keep you from going out of business, which should be just as important. And if you wanna ask anybody, you can ask TD Bank, right? Money laundering, \$500 million moving around-- which probably didn't make them much revenue-- that got kind of just got ignored and they allowed the money to move, they didn't question it, has now caused over almost \$4 billion in fines, not including headline risk.

And at the end of the day, probably no one wanted to throw out a \$500 million client that was moving money around, even though you're making pennies on, on that \$500 million, it's not like \$500 million of revenue.

**Matt:** And, and to build on what you're saying, these frontline folks are probably, in the dynamic of compliance, too low on the pecking order to even be heard when they raise, raise a loss.



**Mark:** Half of 'em wanna get to the trading desk. They're all like, this is my, this is my job, but someone's gonna notice me and I'm gonna get where I wanna be. But I don't wanna be here, but I'm gonna go through the motions and hopefully be able to, now that I'm in the organization, even though I'm not in the seat I want to be in, how do I get to that seat? How do I become an analyst? How do I become a trader? How do I become this? They need to make those seats, like I said, important. Celebrate it and hire the person that's going to make the right decision and celebrate those decisions.

**Matt:** And I can't help but think when you talk about even the chief compliance officer, he said there's probably three, you know, three levels removed from the top or several layers removed from the bottom, however you want to think about it. That person, that office, that role in our system is almost celebrated-- or I shouldn't say celebrated-- it's almost treated like the internal affairs cop of the financial services industry

**Mark:** And everybody's scared of him. Nobody likes him. They either wanna be his best friend or they're hoping he never knows their name. So that's kind of how the person's treated. Same as the head of risk. But at the end of the day, when the head of risk is the best friends with the portfolio manager, they get to look whatever way. Like I said, that middle of the month, it's very tough to have that head of risk, do what he's supposed to do because he is the one that's seeing everything that's going on. So at the end of the day, it's all about making the right decisions. And to me, when someone's coming in compliance, when someone's coming in audit-wise, they need to understand the company they're coming into. And the first thing that I try to do when I walk in and I learn someone's processes is I say, how would I steal from here?

And I immediately try to reverse engineer what I see as the low-hanging fruit based on the knowledge I've taken in. And say, that has to be a sleeve of the, of the thinking. And not everybody, not everybody is a Boy Scout with a bad guy's mind, right? I think that people who always do the right thing should be celebrated, but I think just like you, you, Sherlock Holmes or Clarence Darrow, you have to be able to put yourself in the mind of the people who are trying to steal from you and see if you can recreate it. You don't need to be sitting in the vault when they break in. But the sooner that you can work on prevention, it means less victims and less dollar amounts. Six months can make all the difference. Three months could make a huge difference. The idea is, is what are you doing to indicate and look at patterns. And not rely on AI to be all your answers.

Because the bad guys are using AI also, right? But to me, that's the Jetsons and the best counteract to the Jetsons is to be the Flintstones. Sometimes things need to be slowed down. Sometimes you can't get out a wire in five minutes. Sometimes due diligence has to go ahead of speed, and you need to be able to take the information and have humans take their time to disseminate it, to make it sure it's correct.

**Matt:** How does culture play into it? In, in the white-collar investigation space in-- I'm not gonna call these normal times in the white-collar investigation space 'cause they're not-- but pre- 2025 there was a fairly consistent, straightforward directive from the Department of Justice: Early detection, corporate protocols for compliance, and you're gonna gain points with the government and credit to get an organization off the hook.



You may have to serve up an individual or two or 10 in the process, but those things were fairly tried-and-true and tested as major mitigation chips that organizations could use to defray regulatory scrutiny if problems developed.

What today's climate is ultimately gonna shake out is I think, I think those chapters are being written as we speak. So let's, let's save that for the next interview. But as we're sitting here talking about the first time that you've told your story about how you, you mechanically effectuated the fraud that landed you in jail. When you go into an organization now with the benefit of that sort of pessimistic black hat type of approach. I, and when I, when you talked about what you're doing, I'm, I think about those sort of the ethical hackers that go in and do penetration testing on computer systems. You're the penetration tester now on the processes that are in place in these financial services firms.

How is it that culture plays into that dynamic? What level of importance does the corporate culture play? Because what I'm hearing from you is that you grew up in an industry where the culture was, it's okay to, you know, kick your golf ball a couple back onto the green if it, it's off on the, on the fairway. Not that I've ever done that or anything, but uh, uh, you know, that's what I'm seeing is that there was an institutional culture in the hedge fund industry that made what you were doing look like small potatoes until you were the one that was doing the big elaborate thing.

**Mark:** So I, I mean, culture is, is a big part of it, right?

And when I was on pretrial, okay, waiting to be sentenced and dealing with, uh, that and COVID for six and a half years. And as I was sitting there frustrated saying, you know, I don't understand how this, there's an industry here and no one wants to know the things that are going on. How can I affect, if I am going to, if I'm changing my life and my perspective, just like building a company, you know, how can I disrupt what's going on and where are the negatives? And I found the disruption was prevention wasn't a focus, right, as we're saying. So I decided that. --And, and I didn't realize how good an idea it was gonna be until much later on-- but I said, I'm gonna be around a lot of people like me in Otisville.

And when I went and looked on the internet and I tried to do research on fraud and fraud prevention, all I found were very high-level statistics, right? Race, age, state industry. Who cares? That stuff isn't helping anybody. So what I decided to do is I said, you know what? No one's ever had a couple of hundred financial fraudsters in a room and gave them a quiz.

So I got together and I was sitting with, I mean, tax evasion, invoice fraud, embezzlement, financial crimes, Ponzi schemes, mortgage fraud, bribery. Everywhere you can think, I was surrounded by them. I decided that I had about 20 questions that I was gonna ask these guys --general, not about their crime-- but about their methods. And I was gonna find patterns. And to me, those patterns matter. My story doesn't matter. I'm a snowflake, right? My story can be different than the next 30 people you go ask. But if I ask a hundred people and now I get 60% of the same answer, it's meaningful.

So when I go in there, I'm not always saying it's all bad, right? I don't wanna act like I'm the pessimist walking in. But what I do say is, I now have information that I don't think anybody in the world has



on when people do things. What are their methods? How long did they plan for this? Do they do small testing in order to do it beforehand? What day of the week do they like to send out their fraudulent wires? What are the busiest times of the year for them? And if they make a mistake or break their pattern what month is it? So if I only had time to look at three months on the company's books, what are the three that you feel would be the times that they could have caught you, because instead of doing one my wire a month, you did three wires in one month.

I'm just trying to find better breadcrumbs.

**Matt:** By interviewing the people who have been convicted for these crimes while you're sitting in your, sentence.

**Mark:** Yeah. And now I run the Federal Prison Consultancy, and when I, I interview new clients every week, and I'll say 60 to 70% of them are financial. I give them my time in that first phone call for nothing. My request is I get to ask them the questions. So I've now grown it, not just from Otisville, but now every week I'm getting new, fresh answers and changing those statistics, that give me, like I said, no one's ever had, no one's ever gotten to ask 200 people in financial fraud the question that they were curious on. It would take them a year in order to track these guys down and get them to trust them enough to even answer the questions. I thought that had value and that when I go into companies and when I speak to, you know, to firms such as yours and, and I like to give out some of those statistics, and sometimes someone brings up like, what about this? And I'm like, you know what? I never asked that question, but two months later, I'll have the answer and know that 65 outta 107 individuals said this.

**Matt:** Are you actually tracking, you know, statistics in prison? Do you have like some notebook that you're keeping records at about it?

**Mark:** You only, you only have pen and paper, so, yes.

But I kept the questions general. Like, I'll give you a couple of statistics, right? 72% of the people I quizzed clearly said the reason they were so successful was because of lack of oversight, not necessarily that they were some type of criminal mastermind, right? I asked some high-level questions also. Patterns. Uh, 75% said that they had a significant personal upgrade in their life during their crimes. Meaning much better, bigger car, bigger house, okay, engagement. And what I'm saying is that as a corporation, those milestones from an employer should be looked at. When someone goes from a \$300,000 condo to a \$1.2 million, 5,000-square-foot house. Everybody might have an uncle that died and left them money. Either way, it's something worth looking at, right?

So those aspects of people's lives, it seemed like everybody did an upgrade. They all did it so they could spend some of that money now. Nobody did it and said, it's all in a box somewhere. I can't wait to get out. I did it so I could have money later and when I'm done with my four years. They all did it and spent it as soon as they got it.

**Matt:** So the old "Wolf of Wall Street" paradigm with the lavish lifestyle. What, what was your, uh, what was your upgrade?



**Mark:** So it, it's weird. I think sometimes the Southern District of New York looked at me and said, you know, we we're, we need to evaluate you slightly differently. We know you, you stole, we know you're a criminal. You've admitted you are. But at the end of the day, you're either the worst Ponzi schemer, because you don't have an island, you don't have a Porsche. I, I was looking at it as a, a, a future, a future endgame. I knew what I was doing was wrong, but there wasn't really that immediate gratification, because there wasn't that much in the forfeiture. You know, other than, you know what I would, I think they would call, very minimal money in my bank account in tens of thousands. You know, for me, I was doing it to make money, but that money had to be given to other places to make that money, right?

Now, what I will tell you is simply paying myself during that time is also stealing, right? So, let's not mitigate anything. Even if I gave myself a, a, you know, a \$20,000 a month salary that wasn't justified, right. But at the end of the day, the idea was, was to go out there and make money and giving two or three or four or \$5 million to different companies, that was what I was spending on myself. Because I was expecting the return to be much more than that and for me to have a lot more money than what I could have taken from dollar one if this succeeded.

So, like I said, mine was more giving money elsewhere. And look, I was a charity guy too. I'm sure a lot of people that are in Ponzi schemes and commit these crimes uh, it's easy to be charitable when the money's not yours.

**Matt:** We're talking with convicted fraudster, Mike Varacchi, who is now, in, in a unique role of providing consultative services in the financial services industry using the unique perspectives that he's developed, including the statistical sampling he took at Otisville and other criminal institutions now since he's been out on the means and methods of financial crime. What a perspective it is, Mark. Can you give us an example-- anonymizing, the institution of course-- where you've taken this unique, very unique skillset, that you have to provide real life guidance to, uh, a firm in, in this highly regulated space.

**Mark:** Sure. I, I, you know, I consult for firms putting together kind of compliance programs for them, for their salespeople. I also, uh, have been engaged by a couple of different pieces of KYC and compliance software. We could do a whole nother episode on how, in that successful strategy I had, I was able to, you know, I opened accounts, uh, for people, um, you know, all over the street, at every brokerage firm in the world. And how I feel like KYC is, is a big, big weakness, that's used that people really, as long as the person has the ability to pay commissions, I think they're just kind of like, it's like matador defense, right? They're just kind of waving, they're waving the red cape and kind of moving outta the way and saying, go, you know, go right through. So I do evaluate a bunch of different software and I try to find their choke points. In some places, the software, for me, the choke point was, uh, the administrative level that I felt, I felt the software was good as a whole, but I felt that the person running the software, if they were the bad guy, would have the ability to hide what they were doing.

And the reason why that was important to me is, in some of the statistics that I ran, I dealt with about 15 guys that were high-level, C-level executives that I asked questions of. And almost half of them said that they hired an outside audit or compliance firm to come in and evaluate their company and



their business, hired basically by the firm, but they manage them. And as soon as it, just to see if they could find out what they were doing. And if they did, or got close, they would let them know they did a great job, pat them on the behind, hand them their check and say they were gonna refer them to other people. But that quote, we'll take it from here. We'll take it from here, was kind of like, I need you out the door, but now I know what my weaknesses are and I know I can't keep stealing the way I'm stealing.

But high-level executives are not immune, uh, to the process. So some of the evaluation I do has to manage if the one person that you're trusting and is watching the ship is bad. Well, if they're in charge of all the software, it doesn't matter how good the software is, they can let in or not let in or take advantage of it however they want to. I have to be agnostic to reputation, an individual, because if people were agnostic to me and I didn't decide to do what I was doing after 20 years in the hedge fund industry, maybe I wouldn't have made it. A lot of the benefit of the doubt I got was the reputation that I had set for myself in the previous 20 years. I have to treat everybody, without who they are, without what they do, and just based on, uh, based, based on data and patterns and actions.

And I will say also, the previous year will tell you a lot about the current year. And a lot of times in audits, they're looking at what's going on now and they're not comparing it. But when it comes to invoice fraud, things like that, there's so many different loopholes. And you know, you can wait for people to make mistakes. I think a lot of the time if you are proactive, you have the ability to catch these people and like I said, that's less dollars and it is less victims.

**Matt:** Mark, your perspectives today have been nothing short of remarkable. It's pretty fascinating to hear you speak so candidly about your own legal problems, the fraud that landed you in federal prison. But it's also kind of refreshing to hear you uninhibited in a way that allows you to take what I'm sure what was one of the low points of your life and now turn it into something productive in, in helping these institutions ferret out fraud and abuse.

I can't thank you enough for joining us on this episode of "The Presumption of Innocence." I'm your host, Matt Adams. That's all the time we have for today, but we'll see you next time. Take care.