



## Fox Rothschild Podcast

### The Presumption of Innocence

#### Episode 81: Tipper X Unmasked: Wall Street's Most Unlikely Informant

*Featuring Matt Adams of Fox Rothschild and Tom Hardin*

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**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.

Well, Tom Hardin is a former hedge fund analyst who became perhaps infamously known as Tipper X, one of the FBI's most prolific informants. His new book is *Wired on Wall Street*, and it's a tell-all that has garnered lots of critical acclaim.

In capacity as Tipper X, he really was responsible for taking down a number of the most high-profile insider trading cases in the history of our country. And he's been gracious enough to join us here today on "The Presumption of Innocence." Tom, welcome. It's great to have you.

**Tom:** Thanks for having me on, Matt, it's a pleasure to be here.

**Matt:** So I've got to kind of start from the beginning if we're going to tell the story-- and we'll obviously get to the book-- but tell us a little bit about your background on Wall Street, how you came to be on Wall Street and, you know, save the juicy details. I kind of buried the lead a little bit in my intro.

**Tom:** Yeah.

**Matt:** But, but save the juicy details about, sort of the main arc in your character for a few moments. But give, give us a little bit on your background.

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**Tom:** So I was a middle-class kid from Georgia, the Atlanta suburbs. So, uh, you know, I was a good student, big public high school out of Atlanta back in the nineties when we only applied to three colleges.

Uh, I, I applied to University of Pennsylvania, Wharton as my reach, my my reach college. At first I thought that was Penn State. My, uh, my dad said, no, it's not that, that team with the white uniforms, it's uh, an Ivy, Ivy League school. He figured it out reading the U.S. News and World Report.

I knew I wanted to do business, Matt, not so much that I was like, an entrepreneur. I just knew I wasn't good at science or arts or English, and so it was like, all right, let's do business. And applied, got deferred to regular admissions and then got in. So here, I am sort of fish out of water --as described the book-- just sort of like Tom from Georgia coming to this Ivy League school where there's an ambassador's kid down the hall, there's another kid here, like all having these debates and I don't really know anything. They're all valedictorians.

But I got there and I, I liked it and I adjusted because kind of iron sharpens iron. You're there, you have to perform. And so I really, I really, I think, thrived there through my time at Penn and then as many people do at the Wharton School, I got into Wall Street and started in investment banking.

This is going back to when there was a company called DLJ, uh, which is no longer around, but run by a guy named Ken Moelis in their Los Angeles office. And then, you know, it's investment banking. It's 100-hour weeks. I did that for a few months and then got recruited by a friend to a hedge fund in Greenwich, Connecticut.

So I remember, Matt, leaving, um, LA around Christmas time where Santa was in shorts, and then flying into Westchester County Airport under two feet of snow thinking, what the hell am I doing?

And I got to this hedge fund and it was pretty much the Wild West. You know, it was at the time, um, where hedge funds were still kind of new-- this was going back over 20 years --and growing and there wasn't much regulation. That was sort of the appeal to a lot of high-net-worth investors. All kinds of strategies and kind of like, you know, uh, I was at a long-short tech stock-focused hedge fund. And so that's where I started my, my really, my finance career where, where it ended, which we'll talk about.

And really, I loved it because it was very meritocratic. If you pick the right stocks, you're compensated. If you're not, you're fired. I just liked having the scoreboard there as a young man.

**Matt:** What was that culture like in the cutthroat, nitty-gritty, hustle-bustle, high-energy world of the Greenwich, Connecticut elite hedge fund employee? We've all seen "Billions."

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**Tom:** Mm-hmm, "Billions." Yeah, no, "Billions" isn't so bad. They have good consultants. I know some of them for the show. So it was a little bit, it's, it's actually pretty, pretty well written. I mean, it's obviously Hollywooded up, but it was, it's a good show.

So it's like, you know, it's just, picking stocks. Highly competitive. My boss always said he had 12 analysts, so we're like an NBA team. He is going to have, the masseuse comes in Friday, gives us massages. We're going to have to work hard, stay over the weekend and really just perform. And, it's some of the smartest people I've ever met. You know, you're having conversations about what happens in Asia, how it's going to impact here, Europe and that type of thing.

And one of the challenges was at my first firm. My boss had made all of his money in the late 1990s when things just went straight up. And so once we got to the early 2000s, that's where the, the, the tech stock bubble crashed, and he was having a difficult time. And so I kind of, I kind of bounced around at a few, at a few firms, and then got to a firm-- my final hedge fund, which was seated by Tiger Management --when I was 28, which was a legendary investor in the industry, Julian Robertson.

So I kind of bounced around as a young man. I didn't really have any mentors as I, as I looked back at myself and wrote the book. But then I had a great seat at 28 years old. But also became aware of insider trading happening at that time in the industry, which we can talk about.

**Matt:** So you're living high on the hog, right?

I mean, I'm, I'm sure you were well compensated. You're probably working like a madman around the clock.

**Tom:** Yeah.

**Matt:** But institutionally, what aspects of the culture in that environment led to your ultimate downfall? And, and again, I buried the lead in, in the intro and we'll get there, but I'm really interested in delving into the structural aspects, the lack of compliance, if it is--

**Tom:** Mm-hmm.

**Matt:** Et cetera, that afforded this promising young man to get involved in what has been billed as one of the most prolific insider trading schemes in the history of our country.

**Tom:** Yeah, so mid-2000s-- just to set the stage in terms of what was happening in the industry, in terms of suspicious trading-- 60% of companies that were acquired by private equity companies that were publicly traded had these unexplained spikes in the share prices. So you think about all the parties working on these transactions, the lawyers, the bankers, the rating agencies. So the leaking of this information was pretty prevalent, like mid-2000s.

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Matt, I never felt I had to cross that line. I was considered a good stock picker. One of my best ideas that I never saw come to fruition was after the Google IPO, I said, boss, buy Google and short yellow pages. And younger listeners won't know what yellow pages are. But you know, there was still eight yellow page companies in the world at that time. I said, these are going to go away, and that's the only one insight that you need for an entire career. And so I didn't stick to those insights, those were longer term. At my second and final hedge fund, we lost money in the first quarter and my boss came into my office, closed the door, and said, I know we're investing longer term, but we just lost money in the first quarter. We have to start looking for shorter term opportunities to make money every month or we may not survive.

Now, as the junior professional, I didn't ask him any clarifying questions. Are we going to do what quote everybody else is doing or are we going to stay within those legal or ethical guardrails? I didn't ask him questions. I don't know if that would've changed the situation, what happened with me later, but I just started making assumptions. The boss comes in, he wants performance every month I'm going to do what it takes. We knew that other funds were trading on this information, we would see 13 F filings, which not to be too technical, but hedge funds file every quarter their positions. You'd see new positions getting taken over. You'd see this billionaire who was one of the most famous guys charged later, Raj Rajaratnam, talking at conferences about how he got information, the connections he had, the investors he had. So it was almost an open secret where these guys are, are, are doing it and talking about it and it doesn't seem to be being prosecuted.

And, a, a few months after my boss made our goals very short term, I got a, a tip from another investor who worked for Raj Rajaratnam named Roomy Khan. And she's like, you know, Tom, you made me a lot of money over the last few years on some great ideas. I have something for you. And Matt, it was the most blatant tip, like, here's a public company that's going to be acquired in, you know, in a few weeks. Here's private equity. Here's the date. I knew it was different than a rumor. I didn't trade that day, but later that day, I was talking to a friend at a trading firm, a prop trading firm, and he's down that month. We're talking, he's like, are you hearing anything? I said, you know. I'm not trading this, but this woman just called me, you know, here's what's going to happen in a few weeks-- and as you know, and hopefully many people know-- just by tipping, I can now be at least civilly charged for insider trading, and I haven't even, traded yet. And I have no idea what he's going to do or who he's going to share it with.

**Matt:** And that's how you became Tipper X.

**Tom:** That's basically it. He shares it with his firm. They all load up. It's coming, it's, the stock is trading up every day. And so I see it, the options are going off. You know, he's IMing me every day-- back when we had AOL IM, another term to date myself-- and I'm looking at the stock--

**Matt:** I, I remember, well.

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**Tom:** AOL IM, uh, yellow pages with us. So we had Blackberries at the time. Uh, and so he, he's, he's IMing me, are you in, are you in? It's not an excuse. I want to make the point that it was the culture in the industry, but cheating is a choice. Anybody like me, you choose to cheat. And I chose, I chose to cheat. Because I could buy a small stock in our portfolio-- if, if you think about the fraud triangle-- so we had a need for short-term performance. Our need was, you know, make money every month. The opportunity for me to cross that line was I could buy a stock in our portfolio and not have to talk to my boss as long as it was less than 1% of our assets, like a starter position. I bought a 0.9% position in the portfolio in Kronos, and you know, right when I put that, that trade order in the, the order management system and it was executed, I committed securities fraud. And I totally rationalized it. You know, the third part of that fraud triangle, I said, hey, everybody's doing it, I'll just do it once. I'm still a good guy. You know, I can take a flyer, which we called it. We had euphemisms, we never called it insider trading. 'Cause if you call it flyer, you feel a lot better than calling it, you know, illegal insider trading.

And my boss on all four trades, they were small. He's like, hey, don't tell me how you're doing this, but it's helping us. So he was willfully blind. So those were all the, all the dynamics at that time that led to the first trade. And the fact pattern was pretty much the same. The next three trades were all, she would call small positions. My boss saying, some combination of willful blindness. Don't tell me how you're doing. This is helping us out. And he's my mentor. You know, young Tom doesn't have any mentors. He is, he's my mentor at that time.

**Matt:** So I'm seeing the snowball effect take hold. And was the pressure really just the perfect storm of a lot of money and unbridled ambition? Is that really what brought this to happen in your life?

**Tom:** It wasn't so much about the money. Like I was always, uh, my, my later wife would joke I was the most frugal guy that's still living in the studio as long as I could. It was more about yes, ambition. So going all the way back to Georgia, you know, get into an Ivy League, get into an investment bank, get into a hedge fund, like keep going and going and going. So there was a lot of ambition.

I think for --, and this really didn't come into my, until I actually wrote the book and, and put 82,000 words on the page versus doing my sort of highlight reel keynote speech-- I was drowning in insecurity because my competition was cheating to get ahead. When I got those tips, I remember, Matt, after the first tip, and it happened, as she said, the private equity company bought the public company. I told the guys who I knew were doing this, that, hey, I knew about that one and I knew about other ones. And they put their arm around me and were like, all right, now you're one of us. So as a young man, like not having the status I felt I needed was a big part of it. It wasn't so much the classic story of greed or living a high life or a Porsche. Like we had like a Volkswagen Jetta, studio apartment. It wasn't about that. It was more about status and feeling like I didn't belong. And then once I got the information, now I belonged.

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**Matt:** Yeah. And, I want to dissect that just for a moment because it's such an interesting psychological dynamic. The money is probably something that you could explain almost anything with a desire to have more money, right? And unless you're one of the richest people in the world, all of us could, could use a few more bucks, make life a little bit easier. But I often try to counsel clients about how to create a culture of compliance. And really, how do you create a culture of, of compliance against a headwind like you're describing? Which is a young guy who just wants to fit in, in a, a fraternity where winning at all costs has just been the name of the game.

**Tom:** Yeah, I don't, I don't envy the compliance people. It's very, it's very hard to do, but you also... So Matt, when I'm, when I'm placing these trades, I don't even know who my compliance officer is. Like there was no relationship I had at all. We were, it's not an excuse, but it's just sort of, we were, um, a small hedge fund seated by a larger hedge fund on the top floor of this building. And we were like with a, on the floor with maybe three or four of other firms our size. And I remember once a year, nameless, faceless compliance coming down doing some type of rules and regs training. Nothing like war stories or anything like that, or scared straight training. Going back upstairs. So I never felt that I would even be in a situation where I might make these rationalizations. 'Cause to me that's like, a bad guy would do that. You know, I'm, I'm Tom from Georgia, I'm a regular guy. Like, I'm not a, I would tell myself I'm not a bad guy. So there was sort of, compliance was ought to sight, ought to mind. And I, and I think today it's better in the industry, but it's still a challenge in terms of compliance, getting buy-in, in terms of, like, they're often viewed as a hindrance to the commercial success of the business when they're actually a partner in that success.

And I always tell people, if you're listening in compliance, you're the chief career protector of people's careers. You're not just, uh, somebody in the back office that's like trying to get in the way. And so, it's incumbent on the compliance person to be able to assert themselves-- as a C-level executive, which they all are-- and to have that sort of partnership aspect with the business and not just be like the support function.

**Matt:** Yeah, so, so your venture down the path of insider trading begins on what you felt was this minor-- and by all measures is probably minor in the grand scheme of --

**Tom:** Yeah.

**Matt:** The billions of dollars of trades that get transacted by hedge funds each year. But where did it go from there? It, it sounds like it snowballed into that game of telephone where your information leads to 10 other people getting involved. And I, I think the more government-oriented folks among our listenership might say where the conspiracy began and others joined it. How did you then feed the appetite to continue winning by getting more information? Uh, you know, this insider information, it, it takes two to tango. So --

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**Tom:** Right.

**Matt:** In order for us to really dissect the way that, structurally, our capital markets industry works when these things take hold, where did you go back to feed that need for additional information? Because certainly that trade won the moment, but was not going to build your career.

**Tom:** Uh, exactly 100%. After the first trade, like the news hit the tape, I was kind of scared at first, like, holy crap, this is actually happening. It's not a rumor. My boss is definitely going to fire me. And then once, you know, we go over our morning portfolio and it's 20 stocks, it's two people, that's about all we had in our portfolio. He says, oh, it's one of those, you know, don't tell me how you're doing it. So he's being willfully blind. That further fueled my rationalizations, like he knows this is happening. He wants short-term performance. She's probably going to call again with another one.

And so she calls again a few months later we do it again. And on the third one, Matt, I was wondering like, why is she giving me these free stock, you know, these free tips? If this is going to continue, Tom, her source wants \$15,000. So that's where it escalates from, oh, this is like, not really anything, it's small trades, to the holy crap. She wants money. So I said, let me call you back. And I called my friend who I had tipped-- so the conspiracy downstream, 'cause he was sharing it-- here's the situation, can you get cash together? And literally I'm taking cash of \$15,000, through LaGuardia Airport to give that to her, to California. So no longer can we say, oh, this is nothing. This is actually like a criminal behavior, doing this, right? And so I go through, give it to her, I say, never would I do this again. She's like, sure you wouldn't. You know, she knew. And so it happened one more time with no cash payoff. But that was where it got to a point where-- I always tell my clients, whatever you're doing, if you can't tell your grandmother what you're doing, or if your grandmother wouldn't be happy, seeing what you're doing on the front page of the newspaper, probably shouldn't do it. So that, that's where it got.

**Matt:** So you got hooked on the free samples of insider information. And then I guess a good salesperson, this individual who was feeding you the insider information said, okay, now it's time to pay the piper.

**Tom:** Yeah.

**Matt:** And you actually had to get on a plane. Is that, is this is an effort to evade the, the transactional paper trail that would exist if, if those funds were paid some other way?

**Tom:** She said, you know, she called me and she said, can you write this person a check? And Matt, I was like, I would never do that, right, that's illegal. Like I, I had already rationalized the trades, like that was my, the way I looked at it. But I said I would never write a check. Let me, let me call you back and see if I can get cash together.

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And I'm literally, so we get to LaGuardia and it's still 2007, so it's be, it's before those full metal, those full scanners now at the airports. So it's still a metal detector. I take, the, the cash from my laptop bag in the restroom, put it on my body, stuff it into my shirt and in my pockets. And I'm going through the metal detector or TSA and you know how they say like, nothing in your pocket, sir? Like there was nothing in my pockets. It was all in my shirt. I walked through, go to the restroom, take it out, put it in my laptop bag. I think I'm clear. And then at my gate, there was actually two TSA agents who were randomly stopping passengers and searching carry-ons.

So my group has called, I'm trying not to make eye contact. TSA agent calls me over and I said, oh my God, they're here for me. They saw me on the camera or something. She flips through my bag, she touches the bank envelopes, looks at the other agent and looks at me and she says, sir, have a nice flight. So I sat in a plane. I thought, what the hell am I doing?

**Matt:** Holy.

**Tom:** Yeah.

**Matt:** Holy moly. That must have been most, the most anxiety-producing event of your life.

And so you get away with it. You get through security. You go deliver the payment, the illicit cash payment for the tips that you were receiving. And, how much of a cycle and how long does this occur, this same kind of transactional activity?

**Tom:** So there was one more. That was the third tip and trade. There was one more tip I received, but it wasn't from her. Like I told her when I got to the California, I just like threw the money at her. I'm like, I can't believe I'm effing doing this. Like is it? It was almost like I told myself she was making me do this, when again, I have my own agency. I'm making these decisions myself. I don't have to do this.

I gave it to her. I said, basically, get ought to my life. I can't believe I'm doing this. And then my friend who I had been tipping downstream, his network gave me one more tip later that year, small position, so that was over a seven-month span, the four trades between March and November of 2007. And then, then the market starts taking a downturn going into the financial crisis, like the tips stop coming in. I hate to say this, like--

**Matt:** And it's, it's 2000 --set, set the stage for us, right?

**Tom:** Oh, yeah, yeah, yeah, yeah.

**Matt:** This is, this is just the beginning of the Great Recession, right? So --

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**Tom:** That's right.

**Matt:** You're high on the hog in the, the mid, you know, we go through the downturn after 9/11, and then the markets are really doing right fairly well, but it's a bubble and that bubble bursts and--

**Tom:** Yeah. Yeah. So two--

**Matt:** How, how did you get caught?

**Tom:** So 2007, my fund is up 31% with these four trades. We're up 30% without the four trades. So it actually added 1% of performance. So to our earlier, like, what's the point of even doing this, it's not moving the needle? And my personal take, Matt, like my disgorgement later to the SEC was \$46,000. So I trashed my career when I was 29 for \$46,000. I, you know, that was my career suicide I put in the book, \$46,000.

And eight months after the fourth trade, it's July of 2008. Now we're in the middle of the crisis. Bear Stearns just went under, Lehman's about to go under. We're just trying to survive at work. I'm not thinking about those four trades at this point, you know, I'm going to drop off dry cleaning before getting attached to the work.

**Matt:** Did you think you were in the clear? Did you think this was behind me, I did something stupid in the past? And unfortunately, this is the story of white-collar prosecutions, right? Because seldom--

**Tom:** Yeah, it takes time.

**Matt:** Does, does it, does it happen... You know, we, we watch "Law & Order" and people are so accustomed to seeing street crime and seeing this notion that, you know, there's something that happens, there's an event, they come in, they investigate it, they either get their guy or they don't.

White-collar crime can tick along. I had a client just recently get through a seven-year investigation-- unscathed at that-- and, and the government declined to prosecute. But I can tell you, in those seven years, I was like his therapist at times because --

**Tom:** Mm-hmm.

**Matt:** He was so anxious.

So, you had compartmentalized this out of your mind as something in your past not exactly proud of and --

**Tom:** Right.

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**Matt:** And really had gone onto the straight and narrow. And, and like everybody, you're getting killed in the markets as the worst economic downturn since the Great Depression takes hold in the United States.

So where are you when you first find out that this aspect of your past is coming to roost?

**Tom:** So, yeah, it's, it's July 2008, 6:30 in the morning, I'm dropping off dry cleaning in Manhattan. Hail a taxi to work. I step on the sidewalk out of the dry cleaner. And Matt, I hear my full name behind me: are you Thomas Covey Hardin? And the last time I heard that was back in Georgia, my mom was about to whip my butt. And it, and it wasn't my mom. So I turned around, two FBI agents, you know, it's just like a, it's almost like a straight of the central casting, you know, the wallet's come out. Can you come sit down with us? And so we sat down at a Wendy's.

And somebody read the book, they're like, is it always a Wendy's? I like, no, it's not always a Wendy's, but it happened to be a Wendy's here in Manhattan. And uh--

**Matt:** Did you have an appetite or?

**Tom:** I, I, I like the, I like the potato, but it was the breakfast menu.

So we, we walked up, you know, in Manhattan there's often two stories at these fast food restaurants. So we go upstairs, the most depressing place, homeless guy is asleep in the corner. We sit on these disgusting plastic booths. I'm sticking to it, I'm sweating through my suit. And there's a male and female sort of good, good cop, bad cop routine, so he's laying it on. We know about your four trades last year.

But actually on the street, Matt, like my subconscious kicked in when they said FBI and I was following 'em up the stairs. I'm like, this is about those trades. So that it came back to me. I wasn't going to play like, what are you talking about? Like, we sat down, they said, we know about your four trades. And they said, we know that you were just down in Georgia last weekend visiting your baby nephew. And they knew his, his, uh, name, he was getting baptized, that was back in Georgia. And they said his name. So that was the tactic. And my first thought, Matt, was, oh my God, dad's going to kill me. You know, what's he going to, of course he's going to be upset. And I thought, my wife's going to leave. We just got married, she had no idea. She's the most ethical person I know, she's going to leave.

And then I thought this might impact my career. Oh my God. I might be going to prison. But it went from dad to prison. And I start telling them everything I'm running in my mouth. They said there's this cash payoff.

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**Matt:** Right there at the, right there at the Wendy's. Right there at the Wendy's. You're feeding their 302.

**Tom:** Confessing, Exactly. So the 302's there. That's, they already know what I'm going to, what I should be saying, and they're writing it down. You know, we could talk about the first 24-hours being the most important time, obviously, for somebody like me. And I'm just, I just started confessing, right. I just started saying everything. And they almost said, slow down, slow down, okay.

I'm not even sure what they knew, like, at that time, if they knew about everything, but I told them everything. And then they asked me, are you aware of insider trading going on? I'm like, guys, it's rampantly going on. And what they showed me was a web of names. The names were whited out, but I just saw the big like charts, like the circles and the arrows of the tippers. And I saw there was two big people at the top. So in the book I said, these were the great white sharks. I was like, minnow, like 29-year-old Tom down here at the bottom. And so it became clear to me that they were building cases against two big players in the industry, and they had all these minnows at the bottom.

And they folded it up. He gave me his card. And, uh, he said, you can help us out. It's going to help you. And you'll appreciate this, I said, should I talk to a lawyer? And they said, you know, we can give you guidance on, on when to do that, you know, not, uh, you know, sort of. I didn't, I didn't call you Matt, right?

**Matt:** Public, public service announcement: Ladies and gentlemen, in our audience, to the extent you are ever approached by two FBI agents on the street, do not sit down at a Wendy's with them. Tom is an outlier that he got lucky, ladies and gentlemen. He got lucky.

But so you confess, so you now have to reverse engineer a cooperation agreement, it sounds like. At, at what point did you get counsel? Because I, I'm going to tell you right now, that's insane that you--

**Tom:** Yeah. One year after the Wendy's approach. So I did this for one year. So they said, I can't tell anybody, don't talk to a, you know, we'll let you know when you can talk to a lawyer. Whatever the tactic they use. I should have done, I could have, I could have called you or somebody like you. I just, I was so scared.

And so I took their card. What I did-- and they said I couldn't tell anybody except for my wife. I actually violated that. I went right to St. Patrick's during lunch for a nice confession. I converted to Catholicism through marriage for my wife. And I'm like, I have to talk to somebody. I can't talk to a lawyer, they said. I'm going to talk to a priest. It's a Tuesday afternoon, and there was a long line. And I had gallows humor, like, how many hedge fund guys are in line to talk to this priest? And I talked to him, forgive me father. And he is like, oh my God, it sounds like most of your life, you did the right thing. You really screwed up here.

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But basically my penance was to help the FBI. Should have talked to a lawyer, right? But I talked to a priest and he said, you know, you should help them clean up the industry. And then that was a Tuesday. I waited till Friday to tell my wife. And I thought, how am I going to do this? I'm having panic attacks, bad sweats. I don't think I was suicidal, but it was pretty dark for me.

There was three cooperators like me that summer, that killed themselves that day with the FBI approach.

**Matt:** Oh my god.

**Tom:** Um, I waited till Friday. Yeah, it was, you know, maybe they thought their lives were over, but I'm like, I have to tell my wife Friday after work. And she was working at a little company called Lehman Brothers, uh, you may, you may have heard of from history. So she was at Lehman going through all this. And, uh, I said, let me go first. I have to tell you about what happened Tuesday. And I said it, I accept responsibility immediately. I made these trades, there's no excuses. And she said, can you say that again? I said, I said it again. And she paused forever-- and it felt like forever. And she said, Hey, you didn't do anything to hurt me. And 85% of marriages, I think I heard the stat, 85% of marriages would have ended right there around there when the spouse is no longer who you thought they were. But, it seemed like at the time she was going to stay with me. So that was huge, just having her support in the way she could.

**Matt:** Yeah. Well it, it sounds like you have a, an incredible relationship and, probably helped you through, what was a, a very difficult chapter in your life.

So, again, I, I have to say this with the caveat that this is the exception and not the rule. Having, engaging in, in cooperation for a year before you get the lawyer that steps in and negotiates your cooperation. But what was it that drove you to finally get counsel involved? Because I can't say that is the best way to go about this.

**Tom:** So basically, uh, that was a Friday. Monday I had lunch with the FBI and they had a small piece of metal at the lunch. And I was so naive and I'm like, is that a Blackberry battery? They're like, this is a recording device. And I was kind of unique as a cooperator 'cause I, the woman who was calling me had wired up on me, and the guy I was tipping had already wired up on me. So it was like, how do I even help you? I, I mean, I'm lucky I wasn't arrested, like, did they gimme a chance to help them. And they said, who are the worst actors? And I would give them names. It's always a one-way street, you know, I'd give them names. And my sort of second job, pro bono, was to help them, to get myself in front of these people. And my cover story getting meetings was like, hey, I'm a young guy, probably going to lose my job, it's a horrible market. Are you hiring? Love to get a coffee. And so they'd always take a coffee meeting with me, these targets, who I felt were the worst actors.

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And I was so sloppy, I'd say, nice to meet you, I'm Tom. And we get to like, okay, I had my four trades last year. How do you get your information? But then the target would change the subject. They'd be like, why is this guy I don't know that well, asking me about my federal crimes, right?

So eventually the FBI would listen to it later and say, Tommy, you're doing a terrible job. And I said, hey, it's my first time doing this. Like there was actually no training, there was no counsel or anything for me. What the FBI told me was to ask a question and then say nothing, which is a negotiation tactic. So I'd ask the question, and by the third meeting, the target would start to trust me a little bit. They'd look at me as maybe somebody they could mentor, and then they would say just enough. I would say not, not entrapment, not really saying anything incriminating, but they would say, I have a, I have a contact here, or have an investor here who gives me information. And then that would just be a breadcrumb where I was done and then onto the next one.

And so a year into this, Matt, he was like, it's time to proffer. I mean, what is a proffer? And he explained, he explained that what that was, it's probably good to have legal counsel. And so, only thing I knew about insider trading up to that point was Martha Stewart, which was actually not securities fraud. But I called her lawyer, probably the most expensive guy in Manhattan, and he gave me a referral to his friend on Third Avenue, which sounded great. And so I talked to Larry. He was great, ex-prosecutor. He's like, I can't believe-- to your point-- I can't believe you've been doing this. Who was your lawyer before me? I said, Larry, you're the first one I've spoken to.

**Matt:** Oh my God.

**Tom:** He's like, you're supposed to hire me.

**Matt:** My heart, my heart flutters a little bit when I hear that. And again, I, just so that my audience doesn't get the wrong idea, that is not the way to go about helping yourself.

**Tom:** No, no, not at all. And so he said, uh, you know, you're supposed to hire me that, that first day take their card away.

**Matt:** A year, a year ago you were supposed to hire him.

**Tom:** Yeah. I said, again, there's a theme, hey, it's my first time doing this. So there's no life of crime behind me. And so he's like, hey, you saved a year of legal fees, sort of. He reached out to the prosecutor, you know, started putting it together. I cooperated another 18 months.

And really, we got to a point where the 5K letter I think was going to look pretty good. Like I was, I was-- well, I was doing this and we weren't sure where it was leading, until one day they asked me to wear a wire on two friends that were pretty close to me. And I drew the line there, which is dangerous to do, but I said, these are good men. These aren't bad people.

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Like I, told myself in my head, I was helping them with the worst actors. Then eventually, basically I, you know, my cooperation was over. And around that time, the first 20 arrests that happened, so they said, turn on CNBC. And that was October of '09, you know, when there's the perp walks and the news cameras just happened to be at the people's houses when they're being perp walked. And there's 20 names that come out that were unsealed indictments. And there's one name that's not public. That name-- I didn't know this was my name-- but that name is what they were calling Tipper X. And I'm an analyst, I can figure out, okay, I think I'm Tipper X. And I called the agent, you know, am I Tipper X? He said that's you.

**Matt:** Yeah. I mean, one of the worst things for a defense lawyer to see in a charging instrument is something anonymizing an individual, whether it's Unindicted Co-conspirator One, or what have you. That and any kind of quotations always signal that there's somebody who's been undercover in some capacity, cooperating with the government and feeding them information. And that that's a very, bad position to be in. You're significantly behind the eight ball at that, at that point, once an investigation is that mature.

But your cooperation ultimately ended on the day of that arrest? Or did it continue?

**Tom:** So all the 20 arrests happened. I pled guilty. So just a few months after that, they got it down to one count conspiracy, well one count securities fraud. So, well, just, for the four trades, one count, and one count conspiracy. The guideline-- you know, my, my lawyer said these are sentencing guidelines. Like what are guidelines? He's like, it's based on the amount of money your firm made, so we're looking at a 30- to 36-month guideline.

And I was just playing games with myself in my head, like, maybe the FBI's going to drop the charges, because I didn't have a lawyer for so long. And he is like, that's not how it works. Or, maybe they're going to hire me like that guy Frank Abagnale from "Catch Me If You Can," maybe I'll be like a professional something. It's just like you try to tell yourself stories to stay positive. And you know, my lawyer is like this isn't how it works, like it's time to plead guilty.

And the AUSA who was there-- I'll never forget this. I think the judge always says, are the victims present or, or, any victim's present? Giving my my guilty plea. And the prosecutor, he said, there's no victims. I think he meant to say there's no victims present, but you talk about rationalizations with insider trading, it's like, well, why am I here? But you know, I, I know that he meant to say they're not present, but that was also one of my rationalizations. Like, I'm just buying the stocks before everybody else. Like I still wasn't really owning the... I knew what I did was wrong, but I wasn't still really owning it up to that point.

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And then, um, and then eventually they asked me to wire up on two friends. I drew the line there. It was a horrible day 'cause my name was on the front page of the *Wall Street Journal*. Tipper X was like, people were trying to figure out who, who Tipper X was. And then there it was like some young financial analyst, a nobody, was on the front page of *The Wall Street Journal*.

And my wife had actually just gone back to work from maternity leave that week. So she's back. It's always an emotional moment for any new mother and --

**Matt:** Right.

**Tom:** Uh, she comes home from work that day. And it was the one day I saw her really lose it, just emotionally, understandably. And she took the baby from my arms and she's like, I can't believe you did this to us. So I never felt lower as a man, as a husband in that day, like much lower than the Wendy's with the FBI, because now I saw there are victims. There are people in my orbit that my actions have consequences for. And that was the lowest, you know, I felt.

**Matt:** What was your ultimate sentence after your guilty plea?

**Tom:** Time served. So it took about seven years to actually be sentenced. So that's another thing where you mentioned, you know, your client that had the seven years. Like we, we kept having a holding date, but I think the people that I helped them with had to be sentenced before I could be, I think that's like the 20 people I got credit for. So all my thirties were basically gone.

We got to 2015. And people wrote letters for me, but I wanted the courtroom empty. My lawyer said, that's not a great idea, you want support. I'm like, I don't want to put people here and have to miss work. And I told my wife not to come and she's like, forget that I'm going to be there, you know? So she was there.

And Judge Swain I had in the Southern District. It was still the time of Occupy Wall Street. So there was this populist movement where judges were going over the guideline in some situations, like down with the banksters, like, you know, I'm not a banker. But she looked at my cooperation and the, the PSR said, time served. So she went with the PSR. But still the gravity of being a, a convicted felon, like I just felt like, okay, I'll go find a job now. And again, my lawyer's like, it's not how it works. You still have a felony conviction, which is going to be a very, very hard thing to carry for the rest of my life.

**Matt:** Yeah, of course. And, and that is really the lasting impact of these criminal cases. Because unlike a state youthful indiscretion where you might be able to get something expunged, there's no such thing as a federal expungement, and you are branded for life as a convicted felon and you have to reinvent yourself.

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And that you have done my friend, you certainly have done that. So let's shift into the new chapter and then I want to get to the book.

But you are a consultant for Wall Street and trying to share your firsthand knowledge about how these compliance failures materialize with the people who are trying to avoid them happening in their institutions. So talk to us about that.

**Tom:** I never had plans for this to be my second career, which is what it turned into. The FBI invited me to speak after I was sentenced. An *AP* reporter wrote a story about me, like I had lost 70 pounds, I was on a vegan diet, I was running ultra marathons. So it was this weird, it was an interesting story, like maybe motivational. And, and there was a podcast, a pretty big one that had me on for the first time. It was so raw. And an FBI agent heard that podcast and he was actually in the securities fraud group in New York. And when they call, it's always a restricted number. And he called me in 2016. I thought, what the hell did I do now? So I answered the phone and my wife's like, what'd you do? I mean, I don't know, was it Napster or something or? So I talked to him. He is like, hey, like it wasn't illegal movies, but he's like, hey, of the 81 people we arrested, I was the youngest and I made the least amount of money. I was like, thanks for rubbing it in, I was trying not to get caught, I told myself it was small trades. He's like, that's very interesting. Could you come talk to our rookie agents this summer on rotation about your case? 'Cause we never really understood the why, like why is this guy Tom got caught up in this? And so I spoke for the first time. And it was the FBI's idea to go on this sort of lemonade out of a lemon situation to actually redo compliance training, starting with hedge funds and expanding now beyond that.

So I didn't see this as a commercial opportunity. I'm like, guys, I have to make a living, I have to figure it out. They're like, no, you're allowed to do this. And I was even so careful, I'm like, isn't there Son of Sam laws? They're like, you know, you're not a serial killer. It's just like something you shouldn't be able to do. And so I just spoke to colleges for, for a few months just to get comfortable. Didn't charge, does it resonate? And eventually a company is like, what do you charge? And I'm like, I don't know, three grand.

They're like, great. Oh my gosh, I should have charged more. But once I got paid one time-- my wife was like holding down the fort, she was such a hero, a two-hour commute-- and she came home from work that day, I'm like, you can quit your job now. I made three grand. And she's like, are you kidding me? We have two kids. We bought the house on double income, which was a mistake. Like, I have to keep working. I'm like, no, no, no. I got this. You can stop working. And that was the moment I owned it, I think for the family and for myself. Like, I got us into this thing, like she said, I'm going to get us ought to this somehow. So I started just cold emailing every hedge fund in New York: Hey, I'm Tipper X. I got, no, I got two replies. One thought it was a phishing attack. I'm like, no, that's not me. And then one guy was like, I'll have you and I won't pay you. And then eventually I started getting paid to do it. And 2017, it turned into 90 talks that year.

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**Matt:** Wow.

**Tom:** In three different countries, all by word of mouth, no marketing. People just heard about me. And really what I do-- and it's what we discussed-- I just go in and share this story about the short-term pressures, the goals becoming very short term, the rationalizations in my head, and now how this could happen today when we're, we still have obviously, tipper/tipee cases, but how this can happen when maybe your intent is not like mine. Maybe you're not nefarious, maybe you're just negligent and you get a piece of information and you rationalize, well, I didn't really want this, but it helps my thesis. Like that's where it can happen. And just to humanize it. And so that's what I've been doing on the insider trading prevention side, almost, it's hard to believe it's almost been 10 years, uh, that I've been doing this.

And I, I always wake up every year, you know, what am I going to do with my life? I have to figure it out, and I'm still trying to figure it out. But this has been fulfilling for me, I think just to make lemonade out of lemons. And also I think when I get emails from now the next generation saying they'll never forget the story, you know, that just sort of the wind in my sails to keep, to keep doing it.

**Matt:** The book is *Wired on Wall Street: The Rise and Fall of Tipper X, One of the FBI's Most Prolific Informants*. It's available wherever your books are sold. It's a tremendous read. One thing that that caught my eye is, there's a retired special agent who's on the back of the dust cover commenting on the book --among other high profile individuals, not to mention General Stanley McChrystal is on here as well. But this, this retired special agent who was the case agent on the Wolf of Wall Street investigation says the following about your story, Tom: "As an FBI agent for over 25 years, I've met my share of people who lost their moral compass on Wall Street. Tom Hardin's story is different. Brutally honest, self-reflexive and deeply human. *Wired on Wall Street* is a must-read for anyone who wants to understand how good people can go wrong and how they can make things right."

And that's the story you've been telling us for the better part of the last hour, and, and that is of a, of a good person who lost their way, not for real selfish reasons. As you said, you didn't make that much money off of what you were up to. But at the end of the day, it forced you down a path that I don't think a lot of people genuinely want to go into because that is a difficult, tumultuous, taxing path. What made you write the book? Why did you decide --

**Tom:** Yeah.

**Matt:** That your story needed to be told in such a public way? Some might just cower under the embarrassment of what you've been through. And let me go on--

**Tom:** mm-hmm.

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**Matt:** Live a private life, I'll figure out a way to make a living, but I don't need the --

**Tom:** Yeah.

**Matt:** Hassle of media and book writing.

**Tom:** Yeah.

**Matt:** What, what made you write this? By the way, it should be required reading in business school and law school.

**Tom:** No, thank you. That's, that's where I hope the long-term home is, you know, the, the next young Tom can read it before they start their career. So Wiley Publishing reached out about a year and a half ago. They said, where's your book? You're speaking at all these conferences, you should have a book. And I talked to them and I said at first, you know, I'm just comfortable being in the room, being in the conference room, telling the stories for an hour. But I'm not sure about it getting out in the world, to your point, for everybody to see it.

I also knew my wife wasn't ready for that because anybody, that reads the book, it's just as much her story and what she went through. And she's the true hero as it is my story.

**Matt:** Deeply personal, deeply personal struggle.

**Tom:** Yeah, deeply personal. And she's not a professional speaker, she's a private person. So my hesitation for years was she was not ready. And then one day, we spoke together in an event and she told her side to many women that were there. People came up, one after the other and said, you have to get this on the page because it's going to help. Not even like the, there's the cautionary tale for the business school, but also people going through crazy stuff in marriage and relationships and how 85% of marriages end and ours didn't.

And that was all her doing, she kept me around, but how she got through it. And so we were ready to write the book in that way. And so we very much collaborated together. It was so surreal, Matt, interviewing her last year, like interviewing my wife for what it was like years ago. I said, what was it like for you, Sue? And she's like, thanks for asking Tom, 'cause you never did. I was like, you're right. I was so focused on myself.

So it was important to tell the story that way, not just the cautionary tale, but like, how we navigated the relationship maybe to help people going through their own stuff. And also, my daughters are now teenagers and they're old enough now to be able to understand the whole story. You know, they're 16 and 14 and they both read it. Actually, they listened to the audio book because I got a voice actor and his voice is really smooth, they said much better than mine. So they liked that. But

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they listened to it. And my 16-year-old was like, wow, it's like one small, or a series of small, decisions can really impact your life.

**Matt:** That's, that's right.

**Tom:** Lesson learned, you know, that's for a 16-year-old, right?

**Matt:** Yeah. It's, it's remarkable how sometimes a self-reflexive, ex post facto examination of consequences leads us to better ourselves by really just focusing on the conditions that led to the, the ultimate problem in the first place.

And I, I think that's really the biggest takeaway for me from the book, which is remarkably well done. And, and it's, it's a, it's an easy read because it's spelled out in a very manageable group of segments that really chronicle that timeline along the line of, what you've been saying, young, young, Tom. And I with, with the, um the risk of, uh, of calling you old Tom right now, but let's call it more mature Tom.

**Tom:** Mature.

**Matt:** Yeah.

**Tom:** Um,

**Matt:** What, what does the future hold for you now that you are a convicted felon and that you have probably more than a decade of experience fighting in the criminal justice system to save your life? You made a decision that some make, which is to cooperate. Others hunker down. What advice would you have for somebody that is back in the position you found yourself in, in those early days? Besides the obvious, which is don't start talking to the government without first retaining counsel and negotiating whatever you're going to get for your, in exchange for your cooperation.

But what, what advice would you have?

**Tom:** Yeah, there's a couple of stages. I mean, even before the trades, like as I mentioned like young Tom didn't have any mentors. And so I think it's really important for young people to have mentors and maybe, you know, I would've been talking to my mentor, you won't believe what these other guys are doing. And this woman just called me, I'm thinking about taking a flyer. The right guy would've slapped me around, like, why would you ever do that? You know, here's the \$46,000 we talked about. Here's that iceberg underwater, your career, your reputation, your future earnings.

So one of the professors I speak at, he calculates that as like \$23 million just to put a number out there, so \$46,000 versus that. I think it would've been hard for me to override my own mentors. What

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they were saying about me, you're a good investor, you would never do that. So that's one thing just to talk to people and not make decisions in isolation.

But once I'm in the thick of it, and once I'm going through just a real crazy, shame spiral. Like not even the cooperation and that was part of it, but also just it took years and years and years where I'm trying to think about, I have nothing meaningful to offer to the world. I'm a convicted felon. I'm a POS. You have to be able to forgive yourself. And people in my situation, that's the hardest part. You have to accept responsibility, which some people can't. You have to get outside your own head and grab your friends and grab people that love you, your loved ones. But the hardest part I think, for any defendant or former defendant is forgiving yourself, and you have to be able to do that.

And you have to drop the shame. Shame is, I'm a terrible person who crossed the line. Guilt is maybe like, you know, I'm a regular guy that just got in a situation and made some poor decisions. And you, you have to be able to lose, lose the shame. And again, for any young person, you know, I, I talk about making four very bad choices, but the most important choice I think I made was the right, you know, who you spend the rest of your life with.

So that's just like life advice I give to anybody.

**Matt:** Yeah. Well, I, I like to end most of my episodes by asking a, a crystal ball question, and that is, I want you to whip out your proverbial crystal ball and project yourself into the future. How do we clean up the type of conduct on Wall Street that led to the situation that you faced? How is it that we are able to advance a more ethical, a more just, fair capital markets industry, as a whole, writ large, without fundamentally changing the impulses of our economic, you know, desire to be prosperous? How, how, how do we do it?

**Tom:** Yeah, I think, uh, I think as I do these talks today, I want to say that it's, it's better than it was. And hopefully every year, it gets better. The, the issue is, I think the nefarious behavior is always like ahead of the regulator. And so today it might be crypto or I'm sure you know, prediction markets or what everybody's talking about now with insider trading, and I think that's going to be a harder one to solve because that behavior is always ahead of the regulator and takes the regular a while to catch up. So that's human behavior aside.

I would like to see more accountability, in these situations. Like, I think we often prosecute down to the individual --and I'm, I, I made choices, I broke the law. I'm not saying poor me-- and we often settle higher. I wrote in the book, you know, I was going through this shame spiral and when, when HSBC just settled for laundering El Chapo's money and wrote a check to the government and they were doing this in New York office and, and Credit Suisse First Boston did the same when they were actually helping clients in New York evade taxes and doing all these things that were highly illegal, just writing a check. I think we need more consequences at the higher level for personal

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consequences and personal accountability. Until that, I think it's just going to be big companies writing checks as a cost of doing business. Then it'll still be sort of the \$46,000 guy that gets made an example of. I would just like to see some parity in the two, the two people.

**Matt:** What a fascinating conversation it's been. Tom Hardin, author of *Wired on Wall Street: The Rise and Fall of Tipper X, One of the FBI's Most Prolific Informants*. Tom, time has passed so quickly because you've been such a fascinating guest.

**Tom:** Yeah.

**Matt:** Thank you so much. That's all the time we have on this episode of "The Presumption of Innocence."

Until next time, I'm your host Matt Adams. Be well, take care. Bye-bye.

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