



## Raj Deserved It

***The former Galleon Group head told Newsweek that insider trading shouldn't even be considered a crime and suggests prejudice may have done him in. Allan Dodds Frank on why he's wrong.***

by [Allan Dodds Frank](#) | October 26, 2011

Almost everyone convicted of a major white-collar crime continues to proclaim innocence, immediately after sentencing and even from behind bars.

Maybe it is the unrelenting hope of such defendants, especially those convicted of [insider trading](#), that they can somehow convince the U.S. Supreme Court that unfair prosecution led to their unjust imprisonment. No doubt they hope that Chief Justice John Roberts's court someday will adopt the position put forth by Cato Institute senior fellow Doug Bandow—that insider trading should not be a crime because it makes markets more efficient and no one gets hurt.

Galleon Group founder [Raj Rajaratnam](#), the key defendant in the largest insider-trading case ever, is whining that securities laws governing insider trading are vague and easy to misunderstand. He and his lawyers contend that as a result of his behavior only he lost money. In an interview in the Oct. 31 issue of *Newsweek*, he even hints at prejudice as a cause for his downfall, since as a Sri Lankan-born entrepreneur he missed the American cultural clues that would have alerted him about proper legal norms.

Ellen Davis, chief spokesperson for U.S. Attorney Preet Bharara, said of the *Newsweek* piece: “The article appears to be based on an interview with Mr. Rajaratnam, and a number of his assertions are inaccurate.”

What is insider trading? Imagine playing poker with someone who focused a hidden camera on your cards and secretly used information about your hand to bet against you.

That essentially is what insider trading is—rigging the game, except that in insider trading, the information gained by fraud is used to trade securities. Would you characterize such clandestine cheating as good gamesmanship, unsportsmanlike conduct, or an attempt to steal your money by fraud that should be criminally prosecuted?

As he awaits prison and an appeal, Raj Rajaratnam's defense continues to be that he has done nothing wrong., Louis Lanzano / AP Photo

Now consider someone trying to rig the whole casino. That's what Rajaratnam attempted as he built what prosecutors contend was the largest and most widespread insider-trading ring ever by bribing corporate officers. The criminal enterprise run through his hedge fund generated more than \$50 million in insider-trading profits and surreptitiously affected the trading market for stocks worth hundreds of billions of dollars.

As he awaits prison and an appeal, Rajaratnam's defense continues to be that he has done nothing wrong, that he was just assembling "a mosaic of information." Are we to believe he was just faster and better than the rest of us law-abiding citizens at collecting what the Securities and Exchange Commission calls "material non-public information"?

Rajaratnam and some libertarian academics insist that such "insider trading" should not be classified as criminal behavior, even if the precious information has been obtained by bribery and fraud. They claim no one is hurt financially by this theft of information and the crooked enrichment of portfolio managers.

In sentencing Rajaratnam to prison for 11 years, Judge Richard Holwell said, "There may not be readily identifiable victims, but when the playing field is not level, the integrity of the marketplace is called into question and the public suffers."

If insider trading were legal, corporate officers and directors could breach their fiduciary duties by revealing secret information to influence trading and volatility. Those who run companies would constantly manipulate the release of information to create market swings they could manage for their own benefit.

Holwell, reflecting on the mass of evidence from 18 witnesses and hours of wiretapped conversations, said Rajaratnam's "crimes and the scope of his crimes reflect a virus in our business culture that needs to be eradicated."

Rajaratnam went to college in England, then earned an M.B.A. from the Wharton School at the University of Pennsylvania before founding Galleon Group, a hedge fund that once claimed assets of \$7 billion and landed him on the 2009 *Forbes* World's Billionaires list.

He worked the global South Asian good ol' boys' Ivy League network as hard as he could. He seduced and suborned some of its biggest stars with big paydays delivered to secret bank accounts.

Imagine his delight when he enticed [Rajat Gupta](#), a Harvard-educated former global managing director of McKinsey, the world's most important consulting firm, to supply him with nonpublic information obtained as a director of Goldman Sachs, the world's most important investment bank. Gupta told him when Warren Buffett was about to invest \$5 billion in Goldman.

Prof. John Coffee, a securities-law expert at Columbia University Law School, says, "The real injury is, we're corrupting institutions. Look at Goldman Sachs's board. You want those directors to be honest, and we've got people being bribed. It's like bribing a Supreme Court justice."

Anil Kumar, a Wharton-educated Indian and McKinsey consultant, became a star prosecution witness after being ensnared as a co-conspirator. Robert Morvillo, whose law

firm cut a plea deal for Kumar, says some aspects of insider-trading law may be a little blurry, but the violations committed by Rajaratnam were not.

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“There is clearly hard-core inside information. If you give somebody information about a merger or an acquisition or earnings before they are released, that is not vague at all,” says Morvillo. “Everyone on the Street knows full well that you cannot receive that kind of information and then trade on it.”

Coffee applauds the prosecution for highlighting the sordid details of greed at work. “One of the good things about Raj Rajaratnam is he has helped convince people insider trading should be a crime.”