* How Reality Ate Itself: Orthodoxy, Economy & Trust

by

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*** • Thanks to Vicky Chase for reminding me of the quote from Keynes used in the conclusion.**

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Quis custodiet ipsos custodies?
Who guards the guards?

An economic theory that cannot sustain its own possibility is a poor one but can also be a powerful one. A market economy may valorise the symbolism of the invisible hand but it is as equally beholden to the symbolism of the tacit handshake. The handshake is a metonym for a relation and a market economy is a set of relations inscribed in rules, tacit or otherwise. First amongst equals are trust and the means by which trust is enacted and maintained. Without trust nothing else functions and social reality would be impossible. The philosopher J. L. Austin was one of the first to recognise the importance of this.[1] There are at least two dynamics to talking about social reality. First, description where we designate things true or false by reference to them as objects or past events - the hat is black, yesterday was Wednesday and we had lunch. Second, performance, where current conduct and dialogue constitute a new conceptual element to social reality with material repercussions for future relations – the meeting of hands and *it's a deal*, or the negotiation and witnessed signing of a contract. In the immediate sense, performance is neither strictly true nor false since it is not initially a description, but a doing or making. The doing is in this first instance appropriate or inappropriate, sincere or insincere, successful or a failure. That it is done is in the second instance true or false – the contract as negotiated by two parties with the legal authority to engage in those negotiations was signed by each and entered into in good faith. The glue in this transition is the trust that binds the particular rules of appropriate interaction. The interaction may fail for a variety of reasons that cause immediate problems – an earthquake may prevent the delivery of a consignment required for a just in time production process. But these reasons are not devastating to the social institution in which they occur – the sustainability of business agreements perpetuating economic activity. However, when practices are designed to confound basic principles of transparent dealing, when rules are insincerely held, when a promise ceases to be something you intend to keep, trust dissolves and markets cease to look quite so 'spontaneously' vibrant.

The orthodox Cheshire cat

As has often been argued, the timeless, ahistorical, institution-free fundamentals of orthodox method cannot be easily reconciled to problems of markets as rule systems. But what does it mean that trust and the rules that constitute market systems are not a central problem for orthodox economics? Orthodoxy is about the spontaneous optimality that emerges from the removal of impediments. Since the very idea of rules tends to be conflated with regulation there's nowhere left to hang the structuring of markets. This of course forgets that deregulation is itself (a demonstrably inefficient) form of regulating rule. Its inefficiency and its contradiction is that this form of regulation tends to create the conditions for abuse that undermine the trust on which the free economic activity of markets is based. The radical individualism inscribed in it provides for the belief that *freedom to* massively predominates over *freedom from*. *Freedom from*, our collective protection from the abuses that undermine the very possibility of individual action, is pushed aside. This deep ideological commitment can be heard in the words of Milton Friedman:

> What's interfering with the recovery is all this fuss about corporate governance, which, in my opinion, is being carried too far. In all these cases – Enron. Global Crossing, WorldCom – it was the collapse in the market that brought attention to them. What's happening now is that the hullabaloo, which in effect is saying that to be a CEO is to be a member of a criminal class, is very adverse for enterprise and risk.[2]

But the collapse of the market is not some natural event, it is the dynamic consequence of complex interactions, many of them unanticipated or unintended. One aspect of that is how the practices that constitute markets can undermine the trust that markets require to function. Criminalising CEOs *is* adverse for enterprise and risk but would not be occurring if their practices did not contribute to crises where they can no longer be disguised or ignored. Economists tend to forget about power, but all human systems have power asymmetries. For the powerful to be held to account indicates deep concerns. That orthodoxy cannot recognise this, still less contribute to its analysis in terms of its own theoretical tenets, indicates that it has little that is constructive to say concerning the analysis of an important cause of economic crisis.

In any case, one rarely sees far when the view is from the top, however clear the view may potentially be. In a recent speech Federal Reserve Chairman Alan Greenspan argued that both the $8 trillion dollar loss of share vale on the DOW at the start of the new century and the problems incurred as a result of Enron etc. indicated the general *health* of the financial system.[3] The basis of his argument was that technology had produced new opportunities for financial 'risk dispersion' and that 'a more flexible world economy' was spreading costs and absorbing shocks more readily. The proof? 'No major US financial institution was driven to default.' In adopting this position, Greenspan reveals himself as something of a stoic - w*hatever doesn't kill us makes us stronger*. Still, the US financial institutions are scarcely the whole body of economy. Default has quite a different meaning for those impoverished by collapsing share values and 'financial irregularities'. Risk dispersion is a rather hollow term for those unable to pay their mortgages or with no jobs to go to (US unemployment is 6% and rising). If we call the financial head healthy we must still ask ourselves how it is treating its economic body – as a temple or a trashcan? And need we call it healthy? 2001 was a record breaking year for fraud class actions (488) in the US against firms.[4] The majority by state pension funds and union pension schemes. Around 8 to 10,000 individual cases are being filed a year at the National Association of Securities Dealers (NASD). And all of this despite a change in the law to make it *more* difficult to sue firms for compensation for irregularity - the 1995 Private Securities Litigation Act means that 'aiders and abetters' of wrongdoing in a fraud case cannot be held liable.

Practices that undermine trust

The context of the problem of trust is a finance system keyed to the unrelenting pursuit of the next profitable firm and the next growth sector. Consistent growth provides the basis of a profitable firm and a profitable bull market for the City. When a firm meets its revenue forecasts it can mean a large increase in its share valuation. Analysts categorise firms as 'Market Out-performers' (MOs), 'Market Performers' (MPs) and 'Market Under-performers' (MUs). Whether stock is rated as a 'buy' a 'neutral' or a 'sell' is, in principle, related to which direction it is tending to in terms of these categories. Conventionally, our perception of shares is based on their price-

earnings ratio or P/E.[5] The lower the ratio the greater the earnings of the stock as a proportion of its price and thus the faster one recoups the initial investment. P/E therefore provides a measure of the attractiveness of stock as equity. But how reliable are the price of the share and the earnings of the firms as indicators of the decision to invest? What lurks beneath the numbers? Here, knowledge is power:

- The power to construct the firm's reported revenue stream occurs within strong pressures to place it in its best possible light. In terms of trust, one confronts the question of how far the relationship between the accountants and the firm can stretch. When does creative accounting become aggressive accounting that in turn becomes collusion in fraud?
- The power to manipulate stock prices through complex financial arrangements on the basis of information that others do not have. Here, the problem of trust comes up against the question of at what point expertise becomes self-interest to the detriment of the system from which it feeds?

This is not just an issue of legality since trust is more than a question of 'were any laws broken?' Part of the constitution of trust are the ethics that inform how law is made and how it is adhered to – in its spirit or in its letter? The grounds of trust are extremely difficult to define, but easily lost. Losing sight of the importance of trust is the downfall of the system. Its dysfunction becomes ravenous and reality begins to eats itself. Its clearest expression is a debilitating scepticism. Its immediate, though by no means final, consequence is a downward spiral of corporate valuation.

1. **Special purpose entities or vehicles (SPVs)**

The use of 'tax efficient locations' is a popular practice. Their use is not in itself illegal, but, whatever one thinks of the ethics of large-scale tax-avoidance, SPVs are conducive to fraud through the manipulation of 'Off-Balance Sheet Obligations' (OSOs). Firms can structure borrowing arrangements where the obligation to repay is not recognised on its statements, reducing liabilities on the balance sheet. At the same time revenue itself may be enhanced. To generate the OSO a partnership is set up to feed money into the core company, often backed against that company's stock – the transaction does not appear in headline accounts, just the new revenue. This 'revenue' can facilitate the concealment of the real indebtedness of a firm. Moreover, the new revenue provides a potentially dubious enhancement of the firm's performance tending to lead to increases in its stock valuation. The whiff of fraud meanwhile will devastate that valuation. The risk then becomes that when the 'enhancement' is discovered, share prices will collapse to the detriment of those who based their investment decisions on that revenue. The key to making it work is the constant restructuring of debt so that losses need never be reported. This becomes increasingly difficult in a bear market since the general tendency of share prices is downward. This system of concealment is, therefore, extremely vulnerable to recession. In many ways it amounts to hiding problems during the good times in a way that exacerbates the eventual bad. If the particular OSO partnership was set up by executives of the core company itself, two further problems may occur. A conflict of interest arises and a problem of opportunity. The executive may earn management fees on both sides of transactions and also be in a position to siphon assets off since one advantage of SPVs is that they are not easily monitored. It may also be the case that the 'revenue' may

not be new at all being simply the recycling of capital across different parts of the corporate structure.

2. Split capital trusts (SCTs)

An economy characterised by slow and stable economic growth with low inflation and low interest rates is the Holy Grail of every Chancellor. However, its very stability tends to mitigate large quick gains on financial investments. Many people are not satisfied with steady returns of 2-3% on their money. At the same time low interest rates make returns from traditional bank savings less attractive but borrowing for speculation more attractive. This tends to lead to two effects. First, a feeding frenzy around bubble growth sectors, such as dot.coms. Second, pressure on brokers and fund managers to devise ever more elaborate ways of generating yields above the average. Transactions generate fees and high yields generate large bonuses. SCTs are one way of trying to beat the average. The trust splits its capital between different classes of securities rated as varying types of risk – the riskier they are the greater the potential return (or loss). In principle, investors choose the level of risk they expose themselves to since trusts offer different portfolios of securities. However, all portfolios involve risk, how that risk is represented to the investor is extremely important to the practice of sale of the trust's services. Moreover, the collapse of the trust is the collapse of all its investments. Thus, its overall practices impinge on all its services.

SCTs have been associated with a number of problematic practices. Trusts have boards of directors that nominally oversee them. Many of the members are essentially inactive non-executives drawn from a limited pool of usually retired former City employees, civil servants and politicians. The limited nature of the pool means that cross-directorships are common and the time available to spend on the monitoring of each is reduced. This, an unwritten code of non-interference, and the highly complex computerised nature of many new financial instruments tends to provide trust managers with a high degree of autonomy. Managers of individual trusts commonly direct several for the same company. Moreover, managers not only coordinate several trusts, whilst rival trusts at different companies have interlocking directorships, but also managers of rival trusts tend to invest in each other. One reason given for this is leverage or the strategic advantage of dispersing the risk. However, the riskier the total structure of the holdings of each trust the greater the chance that a collapse in the stock market will wipe out its capital. This risk is magnified for the inter-locking investments of the trusts since they will tend to drag each other down. Risk dispersion can therefore be risk multiplication. In any case, risk dispersion is not the only 'advantage' of inter-trust investment. The web of cross-shareholding provides the opportunity to create a 'Magic Circle'. Trusts can buy and sell designated shares from each other inflating their prices and the apparent returns on investment. The complexity of portfolios and inter-locking investments also allows an opportunity for the dubious practice of 'dividend swapping'. Here trusts credit dividends from one class of share to another usually high-risk share. This is for two reasons. The high-risk shares tend to be held by large institutional investors who generate larger blocks of business and, also, the apparent boost to high-risk shares reaffirms the whole basis of a SCT structure. But not only have the values of shares been artificially raised and their dividends dubiously apportioned, the apparent success of higher-risk portfolios may tend to lead to small investors choosing more of them and to trusts themselves engaging in a greater proportion of high-risk investment. Their debt structure,

therefore, becomes increasingly vulnerable to collapsing share prices and much like SPVs their viability rests on a continued bull market. The Financial Service Authority (FSA) admits that 'there is a gap in regulation' in the splits market.[6] The trusts' trade association - the Association of Investment Trust Companies (AITC) - plans to draw up a code of conduct for splits.

3. Broad based revenue measures

In order to place the revenues of a client in its best light audit reports may use various techniques.[7] Headline figures may be emphasised in earnings before interest, tax, depreciation and amortisation (Ebitda). Ebitda can appear as a large positive number no matter how poor the firm's actual profitability. It can be enhanced in at least two ways. First, and most conventionally, growth by merger. This effectively increases the total base for earnings and thus Ebitda but does not necessarily tell one anything about the nature of the acquisition. Acquisition usually requires a premium be paid for the acquired stock and the vulnerability of the acquired firm to takeover usually indicates a current problem with its business. The net effect may therefore be a fall in the profitability of the merged firm.[8] An associated practice that may be used by the firm selling some portion of itself to the acquiring firm is to suspend some tax payments to the Inland Revenue. It may take the tax authorities years to investigate and negotiate some payment, if any at all.[9] Should the payment become liable the original owners of the firm usually pledge to meet the bill, if they still exist.

Second, firms may employ a variety of revenue enhancing practices to enhance Ebitda since its calculation of earnings are not restricted to cash, let alone cashflow (which is extremely difficult to massage). For example, firms may engage in 'capacity swaps'. Here, two communication firms buy and sell each other's carrier capacity (a swap), which is then stated as increased revenue through sales. A similar practice is conducted in the advertising industry where firms barter each other's advertisements between their websites (a 'hollow swap'). Firms may also use reported sales as earnings at the time the sale is agreed rather than actual payment at the point of delivery, which may never occur. A variation of this in retail is termed 'Bogof', in deference to its relation to the marketing practice of buy one get one free, from which it derives.[10] The free additional item is also swiped through the electronic till system and is registered as a transaction meaning it contributes to turnover statistics. As such it leads to the overstatement of sales growth. Some firms also use revenues at point of payment without direct reference to potential future debt incurred from the nature of the contract over the period of its life (such as from travel insurance or leasing arrangements).

4. Spinning

Spinning involves the preferential allocation of stock to favoured clients, often at discounted prices, when companies are first listed.[11] This practice is associated with two others in a bull market. A bank's investment analysts consistently 'talk up' (i.e. rate as a 'buy') a new stock prior to listing to ensure a large demand that will see the stock's value rise rapidly on the first day's trading. Those to whom the stock has been 'spun' then make a killing in the first days of trading. They are often senior executives in other companies (that may or may not be spun themselves) that provide the investment bank with new business. This practice may breach what are known as 'Chinese walls' within the bank. This means that the divisional independence of the

bank's investment analysts and its research arm is brought into question i.e. there is a conflict of interest between ongoing relationships with some clients and providing 'objective' advice as market information signals for other potential clients. Spinning is particularly problematic during a 'bubble economy' situation where the business plans (revenue schemes, profitability forecasts etc.) of the firm, especially a new firm rather than a longstanding one going public, are not closely scrutinised. A further related practice termed 'laddering' can help to fuel the bubble. In order to be allocated talked-up stocks investors promise to buy more stock at progressively higher prices once trading begins. Ultimately, once it becomes apparent that the firm cannot meet the 'talked up' expectations share prices are liable to collapse. By then these initial short-term speculators have usually moved on. The capacity to talk up expectations is often related to the practices in 1 & 3 that enhance their apparent revenue. This is, again, a handy marriage of convenience for new issues for newish firms that have not yet shown a profit and have nothing to offer other than apparent growth in sales, turnover, revenue etc. in line with prior large forecasts. The legality of spinning remains an open matter. The UK Financial Services Authority (FSA) thinks that it *may* be a 'breach of principles'.[12]

5. Insider trading

Insider trading is defined in the UK according to Section 52 of the Criminal Justice Act. It is an offence to disclose price sensitive information or encourage others to use such 'inside information'. Similar legislation exists across the industrialised world. The use of inside information can take various forms. One may simply pass on information from not yet published corporate accounts. If a firm is about to issue a profits warning or declare that it has failed to secure a particular merger, tender, or license, those with such privileged information bail out of the stock before its downturn. Obviously the reverse is true in the case of good news. This kind of insider trading is extremely difficult to prove, since the only evidence a careful person leaves is the timing of the transaction. Coincidence is not in itself proof (unless they happen to be privileged employees such as CEOs) and, in any case, the transactions may be filtered through various shall companies etc. Insider information is particularly useful when deciding on the appropriate time to get out of 'spun' new share issues. It can, however, have a detrimental effect on vulnerable SPVs and SCTs since sudden and unexpected large share movements can trigger the structural instabilities to which they are prone.

Direct insider trading by brokers is less common. Here, brokers seek to trade in shares to influence a market in which they also trade for clients. Motivations for this are complex. If, for example, a client is engaged in a planned merger, the brokers may establish a 'short position' in the firm the client wishes to acquire. This means they guarantee to sell them to the client at a fixed future price without having yet bought them. If one can then drive down the price of the stock a margin of profit is created for the brokerage, which in turn will generate a bonus for the broker. The difference is effectively at the expense of the client. Sometimes, however, the client themselves may simply be artificially maintaining share value by trading in their own stock in a circuitous fashion. Since a firm's credit rating can be linked to their valuation there is an obvious corporate motivation for this as there is in the case of SPVs. Because stock options are now also a standard part of corporate executive pay schemes there is also a personal motive. A more exotic form of manipulation is provided by the extension of spread betting to the FTSE 100. The spread betting

organisation sets a spread or range for a particular share issue or perhaps for the value of a days trading. The punter places a bet on where the share will close above or below the spread. For every point outside the spread that the punter is correct by s/he wins a multiple of the stake. The point, however, is that a large bet above the spread will become information in the financial system when it is laid off by the betting organisation. Stakeholders in a new share issue can, therefore, attempt to indirectly hype their own stock. Moreover, not only can they try to influence the value of their own stock in the newly listed firm but should the bet come off their winnings are not subject to capital-gains tax or stamp duty.

Cannibalising reality?

The past five or six years have seen numerous financial scandals. Since economy is an open system one tends to find a complex interaction of some or all of the above practices within those scandals. The dot.com bubble provided a great deal of scope for spinning and laddering. Though cases of spinning are alleged on the London markets, New York has been the focus of investigation.[13] New York Attorney-general Eliot Spitzer has been engaged in protracted investigation of 12 of the major financial institutions for forms of spinning. Most of the evidence is based on private e-mails and documents that contradict the public statements of investment analysts. Henry Blodget, a Merrill Lynch analyst, for example, publicly rated Infospace stock as a buy whilst privately noting, 'This stock is a powder keg… given the bad smell comments that so many institutions are bringing up.'[14] Breach of Chinese walls is also alleged against Citigroup's investment banking arm Salomon Smith Barney, which consistently rated Qwest Communications as a 'buy' up to the point of its price collapse. At the same time, Philip Anschutz, Qwest's founder, was selling Qwest shares amassing a $1.45 billion profit. Anschutz also received 57 allocations for various share issues at a personal profit of around $5 million from Salomon whilst Qwest had generated $37 million in revenue for Salomon from its transactions.[15] Fines imposed by the Securities and Exchange Commission (SEC) on the banks currently stands at $1.4 billion. $900 million of which constitutes compensation for investors, $450 million to fund independent research (to maintain Chinese walls) and $85 million for 'investor education'.[16] $400 million of the total will come from Citigroup (who have also set aside $1.5 billion to meet the costs of compensation for further investor litigation).[17]

The dot.com firms themselves and also the new telecoms were highly prone to creative accounting based on capacity swaps and barter in order to massage their revenue figures during the early phase of set-up. This and talk of new business models making money in completely new ways with extremely low long-run fixed costs sucked in masses of venture capital (over $40 billion of which is now lost).[18] At the same time, as a high growth sector, dot.coms provided (along with various high growth sectors of overseas markets) one of the initial areas of high-risk that proved extremely attractive to SCT managers. The fact that some of these issues were spun, of course, meant that the estimation of risk by those managers was baseless and their vulnerability far greater than even they could imagine. Any other shock to the system, such as 9/11, could only exacerbate their vulnerability. The collapse of Aberdeen Asset Management's SCTs, contributed to the £10 billion lost by more than 50,000 private investors in this sector.[19]

The possibility that even apparently low risk investments are not what they seem also emerged. The misuse of SPVs and OSOs prevents investors relying on

firm's accounts with any degree of confidence. WorldCom used OSO's to keep $4 billion off balance. In 2000 Enron was 7th in the *Fortune* top 500 with reported revenue in excess of $100 billion (a 150% increase on the previous year).[20] Its shares traded at over $60. Its chief financial officer, Andrew Fastow orchestrated several SPVs set up in the name of his children and his wife, from which he allegedly earned $30 million in fees and siphoned assets. The decline of the DOW over the turn of the millennium made the use of Enron stock to finance continued debt restructuring more difficult and on October 16th 2001 Enron posted a bombshell $1.01 billion loss. The vulnerability inherent in its revenue enhancements then kicked in in earnest. On the 17th the *Wall Street Journal* publicised Fastow's SPV connections. On the 29th Moody's Investor Service, down-rated Enron's credit rating increasing the servicing costs of its newly revealed debt. By December 2001 the firm had filed for bankruptcy and it was all over. Its share price had collapsed to less than a cent. Numerous small investors who had relied on its stock for their pensions and large pension funds themselves were hit hard. State pension funds in New York, Georgia and Ohio lost over $350 million. By February 2002 the Bank of America had $231m in Enron related losses. One hundred Merrill Lynch executives lost $16 million of their own money invested in an Enron partnership.[21] Ordinary Enron employees received no severance pay. In November, however, senior staff had awarded themselves $55 million in 'retention bonuses' from the dregs of its coffers. Just prior to the October 16th loss statement 29 senior executives sold stock, over a dozen reaping in excess of $10 million. A class action suit has now been brought against them for insider trading whilst Fastow, and a number of collaborating London bankers, have been indicted for fraud.[22] Meanwhile, Enron's accountant, Arthur Andersen was indicted for obstruction of justice. Its other clients bailed out to the remaining Big Four accountancy firms and Arthur Andersen, previously the fifth largest professional services firm in the world was liquidated. The nature of Andersen's relation to Enron is suggested by the following statement from an anonymous former executive of the firm:

> Everyone makes the mistake of thinking Andersen and Enron are separate companies. There are hundreds of ex-Andersen people inside Enron, a bunch of young kids just out of college. Give those new Andersen kids a downtown loft, a new Lexus and show each one the golden path to becoming a partner. Hey learn to do things the Enron way.[23]

The initial fallout from Enron was the re-auditing of accounts previously held by Andersen. Deloitte & Touche, for example, took over the audit of MyTravel from Arthur Andersen, its re-audit took £15m off the profitability of the firm. Share prices subsequently fell by 36%.[24] With revelations concerning SPVs major news, corporations moved quickly to distance themselves from any hint of scandal. Blue-chip firms, such as Xerox, have been publicly realigning their former accounts and future forecasts. But according to the IMF, 'questions regarding the quality of reported corporate profits in the aftermath of Enron's failure continue to have an adverse impact on international and corporate bond markets.' As Mathew Wickens of ABN Amro says, part of the problem are the figures firms are posting because 'we don't really know what they mean.'[25] Presswatch ranks accountancy as the top service sector for column inches of negative publicity. People are sceptical about stock markets. In a survey by the investor group Pro-Share more than half the 450 investors questioned felt less confident in the accuracy of company accounts. 'One in three

believes auditors are not independent of the companies they audit.'[26] The collapse of trust, therefore, places Friedman and Greenspan's rather blithe accounts of the $8 trillion fall in the DOW in a rather different light.

The effects of the collapse have been widespread. California, the richest state in the union with an economy of $1.3 trillion faces a $21 billion budget shortfall in 2002.[27] Some of this is due to general recession to which the collapse of the stock market has contributed. Some if it is directly attributable to that collapse. In 2000, California received $17 billion in taxes on stock market profits, mainly from dot.coms, in 2002 that fell to $5 billion. Cuts in state spending of $10 billion have subsequently been announced including state worker redundancies, pay freezes and also reduced healthcare expenditure for the poorest in society. Californians were also direct victims of Enron. It has been alleged that Enron traders triggered widespread blackouts by buying huge blocks of power capacity in the state's electricity market to artificially increase the price of their own supply.[28]

What secrecy reveals

Sophisticated capitalism allows for a variety of primitive abuses. This is not simply an issue of lies and deceit. To argue this way is to reduce the problem to the agent, to the bad apple, rather than the conditions of enablement within the orchard. Analytically, this does not move one far enough away from orthodoxy and radical individualism. Deceit is the tip of the structural iceberg. The full nature of the rules of the structure and the way in which they are held needs to be considered. The US Sarbanes-Oxley Act, which now requires finance directors and CEOs of listed companies to attest to the accuracy of their accounts or risk jail, is a step forward in giving teeth to corporate governance, but it is not in itself corporate governance. Nor does it restore trust, since once rules are codified firms will seek to exploit them. What is also needed are ethics of appropriate action that mitigate the desire for such exploitation. How one might maintain them under the pressures of competitive capitalism is an open question, but it is not one that should be conflated with lying *per se*. There can be an ethical good in being economical with the truth. In macro policy it makes no sense to confirm a run on a currency or confirm some policy that relies on surprise for its effectiveness but has been leaked (such as currency devaluation). Equally, rules cannot be overly general across economy – there are good reasons why the police don't work on commission. What is certain is that orthodoxy adds nothing constructive to the debate on markets as rule systems. It does not lie, but it is false. A lie in social science, like honesty in politics, is usually found out and punished. But false knowledge has a life of its own. Ironically, one wonders, therefore, if Keynes is entirely correct in his sentiment when he argues, 'you can't convict your opponent, you can only convince him.'

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[1] pp. 45-52, J. L. Austin, *How To Do Things With Words* (Oxford: Oxford University Press, 1962)
[2] D. Smith, 'Feisty at 90 – Friedman Speaks Out,' *The Times Business* September 8th 2002.
[3] Text reproduced in full *The Times Business*, September 27th 2002.
[4] J. Doran, 'After the bust, a boom in fraud suits for Wall Street's lawyers,' *The Times Business,* November 30th 2002.
[5] $PE = \frac{p-g}{p} / (I + e - g)$
R. Marris, 'Have the markets reached bottom?' *The Times Business* November 7th 2002. R. Cole, 'P/e ratios indicate good value,' *The Times Business* July 20th 2002.
[6] R. Miles, 'Advisers 'were warned about split capital risks,' *The Times Business* November 12th 2002.
[7] T. Smith 'Cooking the books is as easy as ever,' *The Sunday Times* February 3rd 2002.

[8] But not necessarily, since, if the merger is one of the integration of stages of production across national borders, the opportunity for Transfer Pricing occurs. An overseas supplier is bought becoming a subsidiary. It then becomes possible to minimise tax liabilities in both countries. The subsidiary's product is sold cheaply to an intermediary shell company in a 'tax efficient location' such as the Cayman Isles. Sale tax in country A is therefore negligible. The shell company then sells the product on to the main firm at a high cost. Apparent profit on final sales of the final product in country B is therefore reduced reducing tax liability there also. The problem for the firm then becomes what level of reported profit is sufficient to maintain its share value growth and how to signal its actual financial health.

[9] D. Sabbagh, 'C&W used Andersen tax strategy,' *The Times Business* December 10th 2002.

[10] P. Wheatcroft, 'Buy one get one free conundrum,' *The Times Business* November 12th 2002.

[11] R. Lambert, 'Are Wall Street's Ethics Dead?' *The Times* October 8th 2002.

[12] C. Merrell, 'Davies launches inquiry into 'spinning' over new issues,' *The Times Business* October 24th 2002.

[13] In the UK see, Insight team, 'Revealed: the cosy deals that taint Goldman Sachs,' *The Sunday Times Business* November 24th 2002.

[14] See A. Rayner, 'Spitzer poised to reveal fresh evidence against 12 banks,' *The Times Business* November 22nd 2002.

[15] R. Lambert, 'Are Wall Street's Ethics Dead?' *The Times* October 8th 2002

[16] D. Rushe, 'War is over (on Wall Street at least),' *The Sunday Times Business* December 22nd 2002.

[17] J. Doran, 'Citigroup plans $1.5bn fund for compensation,' *The Times Business* December 24th 2002. A. Rayner, 'US banks to settle with regulators,' *The Times* December 9th 2002.

[18] N. Hopkins & T. Bawden, 'Spectre of high-tech bubblelingers on,' *The Times Business* November 8th 2002.

[19] P. Durman & L. Armistead, 'Dotty, the champion of split caps,' *The Sunday Times Business* October 27th 2002.

[20] See B. Cruver, *Anatomy of Greed* (London: Hutchinson, 2002)

[21] D. Rushe, 'Enron Watch,' *The Sunday Times* February 3rd 2002.

[22] 78 charges have been filed so far. 'Former Enron chief to face more charges,' *The Times Business* December 27th 2002.

[23] B. Cruver, 'I had a lucrative career… but it cost me my soul,' *The Times Business* October 2nd 2002.

[24] J. Ashworth, 'Unearthing the Arthur Andersen time bombs,' *The Times Business* Thursday October 10th 2002.

[25] L. Paterson & G Duncan, 'IMF fears more shares misery,' *The Times Business* June 13th 2002.

[26] D. Wild, 'A horrible year, but at least now accountancy is sexy,' *The Times Business* December 19th 2002.

[27] C. Ayres, 'Economic woes take lustre off Golden State,' *The Times* December 11th 2002.

[28] J. O'Donnell, 'Enron's 'tricks plunged California into darkness'', *The Sunday Times Business* October 6th 2002.