

INSIDE TRADER



The human heart has multiple chambers.

On July 8, 1986, the Securities and Exchange Commission served Ilan Reich, a young partner at Wachtell Lipton, with a subpoena demanding all his and the firm's files relating to certain transactions that Ilan or the firm had acted on over a six-year period. These were transactions in which Dennis Levine, an investment banker at Drexel Burnham Lambert, Incorporated, had traded on inside information. Levine had been arrested on May 12, 1986, the first in a series of arrests that would expose the largest insider-trading ring in Wall Street history. Here was the grimy underside of the past decade's merger activity. Before Levine's arrest there had been little reason for those professionals involved daily in the merger markets to question each other's ethics. Until then, misuse of inside information had rarely involved professionals. Most often, exposure of abuse unmasked peripheral parties like typists and proofreaders. But by July 1986, Levine had implicated a number of young investment bankers from other major firms as part of his ring, while leaving no doubt that other profes-

sionals directly involved in merger transactions would also be named. We had all been affected by the fraud, without being aware of it, and that summer we intently followed the course of the investigation, waiting for further revelations.

The SEC's subpoena, in addition to requesting specified files, called for all of Ilan's office and personal records, including bank accounts, travel and expense vouchers, and telephone logs over the last six years. These constituted cartons of information about his daily affairs that, when artfully pieced together, would provide a topographical map of his activities. In response to this inquiry, Ilan shrugged in his typical relaxed and acceptingly benign fashion, telling everyone that he was resigned to the indignity of the SEC getting into all aspects of his life. On that afternoon, Ilan came into my office to talk to me about the scope of the SEC's request, which he had been trying to satisfy most of the day, and to seek advice.

"What will the records show?" I asked.

"Nothing," he said, finding a seat by the window, the sun to his back.

"Do you have anything to worry about?" I asked, raising a broader question. Any investigation by the SEC is a warning signal, and almost involuntarily I judged him, wary of deceit.

In the strong afternoon light his prematurely gray hair looked almost white and his skin glowed the way it would with a lamp behind it, pink and luminous, nearly baring his finely wrought bone structure. Everything about him was at rest: even his long, lean fingers, usually curled around a pencil, were relaxed. Sitting comfortably in a slouched position, one leg slung over the arm of his chair, he seemed at total peace with himself. Is a troubled conscience reflected on the surface? If so, I thought, it would show now. Composed with the stillness necessary for an X ray, he faced me without a hint of any inner tensions. As I observed him, he leaned forward and drank slowly from the can of soda he held, his eyes finding mine.

Waiting for an answer, I lowered my eyes, as if ending my scrutiny, but my mind insisted on posing questions. If the surface wasn't revealing, shouldn't the judgment be made from known actions in the past six years? There were dozens of moments of stress we'd

shared, disarming enough to show character in all its aspects. Are moments of depression a basis for a damning judgment? What about arrogance? Annoying questions, sufficient to make me feel a stitch of self-reproach in raising them, more so because the mind can always work up doubts. If anything, there was a bewildering confusion of detail in these experiences, with his life and mine and the firm's history entwined.

Ilan was twenty-five when he'd joined Wachtell Lipton six and a half years before, his hair already gray. The gray was touching, as if he'd been singed by an internal fire. He was slight and lithe, with the physique of a dancer, almost elegant. Never quick to make friends, he was an outsider whose business suits were all an acceptable dull gray and whose shirts were always white—an unchanging uniform, without flair or self-expression. You found the man in his expressive face and hands and in the language of his body. His smile was shy and sweet and made him look vulnerable.

He was one of the four or five lawyers that Wachtell Lipton hired annually in the late 1970s. The firm's founders had decided that young lawyers should be hired with the intention of making them partners, contrary to the Wall Street system of admitting relatively few of the associates into the partnership. Growth of the firm would be controlled by being selective in hiring. Wachtell Lipton told the young people that they could trust their elders to promote them to partnership status, and that promise affected the partners' attitude toward the associates: there was no need to keep aloof from the associates, for they would almost certainly become partners. Cravath discouraged social contacts by partners because the associates were not part of the firm; here I could be close to the people with whom I worked. Accordingly, I regularly had lunch with them, occasionally dined with them, and even met their families. There were substantial benefits in eliminating the traditional barriers, for I got to understand the world from another generation's perspective, which made life fresher.

Ilan began working exclusively with me after graduation from Columbia Law School in 1979 and an initial three-month period at the firm. He worked with me for about a year. Although he was headstrong and needed guidance, within a short time I knew that he was a truly gifted and imaginative lawyer who had an intuitive

feeling for the work. His interest and aptitude increased my desire to teach. And while the working relationship was tutorial, it centered on the day's events, which weren't organized for learning, leaving room for personal expression and an exchange of points of view that affected the outcome of the work. Through Ilan, I understood the role I'd served for my mentors in acting as an intellectual foil and companion, though I carried the mentor relationship further than I'd experienced it and made Ilan a friend.

We ate lunch together regularly, mostly discussing the work at hand. Sometimes we talked about personal problems, and Ilan gradually told me about his life. Ilan was driven to be more successful than his brother, Yaron. I enjoyed that competitive spirit in him, familiar as I was with family rivalries, which were common to many of my partners and myself. Yaron, a year and a half older, always excelled, and Ilan had followed in his brother's shadow for over twenty years, in all their schooling, including Columbia College and Law School. Yaron's achievements had continued and were even accelerating: he was a well-regarded lawyer at Cleary, Gottlieb, Steen & Hamilton, a prestigious Wall Street law firm. The brother was close to the family and had embraced its Orthodox Judaism. As if in response, Ilan rejected Judaism completely: he worked on all the holidays and observed no dietary restrictions. Like most at Wachtell Lipton, he was totally secular and made the firm an outlet for his ambition.

While Ilan's brilliance showed itself early, it was accompanied by impatience when his point of view wasn't immediately accepted. He became easily irritated and then angered at others when they disagreed with him, referring to those lawyers outside the firm as "empty helmets." While working exclusively with me, he was sheltered from the rest of the firm, but when he worked for other partners, there were sometimes needless confrontations. Ilan did better with the younger people: he understood their limitations, and his brilliance engendered awe and adulation in them. Inverting the usual formula for success, he was liked by the people below him and disliked by the people above.

The partners reviewed the associates annually and graded their performances. At such meetings, all the partners pooled their information and exchanged views. With the associates not present,

there was always a frank exchange, often an emotional one. Most of the partners found Ilan exceptionally talented, but many were distressed by his arrogance, which was interpreted as lack of judgment. I was the apologist for his behavior. He was young, I said, and the rough edges would wear smooth. Despite that, he was given bad reviews for three years running and was then told that he might not become a partner. In his fourth year, Ilan talked to me seriously about leaving Wachtell Lipton. His rejection of the firm came from an anticipation of failure and also from contemplating expected adjustments to the partners that strained his personal flexibility. On a late-afternoon flight back from Chicago, he spent the entire trip discussing the situation with me. I felt that it was a moment of decision and told him that I wanted him to stay, that as the practice grew he would share it. He asked me then, as he had from time to time, what he had to do to develop his career. The best advice I could give him was to avoid confronting the partners.

He tucked in his chin and became less assertive in the firm. For the next year his relations with the partners were untroubled. Freed from his confrontations, they could enjoy tilting with their adversaries, and recognize his brilliance. The final challenge was Martin Lipton, who wasn't easy for any young person to work with. Ilan, however, developed a good relationship with Lipton, first by allowing the older man to take the lead and then by respectfully acting as a foil, much as Ilan did with me. Lipton ordinarily needed a mature mind with which to exchange ideas, but in Ilan he found a fine and eager one. First Lipton appreciated him, then he became proud of him, and the relationship became almost that of father and son.

Ilan became a candidate for partnership after five years at the firm, a year earlier than the usual six-year track. Just as his early partnership looked assured, I opposed it, the only one who did. I was concerned that Ilan was immature and, just turning thirty, was still not seasoned. I felt that he could benefit from another year's apprenticeship. In his favor was that everyone in the firm knew him and, by then, trusted him. With his trouble in getting along behind him, he was integrated into the firm.

Debate about early partnership was academic, however, because there was a need for new corporate partners. At the end of 1981,

Carlo Florentino, a young partner, had been forced to resign as a result of trading on inside information. That loss, and two other young corporate partners leaving to go to other law firms, had created a gap that needed to be filled, and no one took my objections seriously. Ilan was my friend, and they knew that if everybody who had previously opposed him recognized his talent, I wouldn't vote against him. The partnership met in November 1984 and made him a member of the firm as of January 1, 1985. The early elevation to partnership was especially poignant for him, he told me, after the trials he'd experienced at the firm—and for once he had gotten to the goal line before his brother.

Judging Ilan in my office that summer afternoon, nothing countered my feeling that he was entitled to my loyalty. As I examined him, I asked myself one further question: What about his friendship with Dennis Levine? Less than a week before the subpoena, Ilan had told me that he'd just gotten a telephone call from Dennis Levine, who sounded as if he were speaking from a pay phone. Ilan had heard the unmistakable ring of coins at the beginning of the call, giving the illusion that the call was safely being made from some remote place where it couldn't be overheard or recorded. Levine, free on bail, said to him, "The prosecutors are asking me a lot of questions and I wanted to hear from you what I should tell them about us." Ilan told him he didn't know what he was talking about, and abruptly hung up.

That call came to mind now, with a picture of Dennis Levine, in his aviator glasses, hunched over the phone in a posture of guarded intimacy. I felt that the subpoena was part of a concerted action on the part of Levine and the government to entwine Ilan: the next step after Levine's obviously recorded and deceptive call. Telling me and others about Levine's actions validated Ilan's status as victim.

Sitting opposite me, Ilan now appeared to be judging me, evaluating our friendship, which was his right. Nonetheless, it was disconcerting, and I stood up to adjust the blinds, deflecting the stark light away from me. This was the moment to give him assurance of my loyalty. Friendships are fragile, and I didn't want to offend him. Ilan was working on some of my matters again, after a year as a partner, sharing an important part of my life. Knowing

him as well as I did, how could I doubt him? When he told me that he was innocent, I was ready to accept his assurance and embrace it.

Sipping his soda, he became contemplative and asked me then whether he should get his own lawyer to handle the subpoena. I told him we were all in this together and the firm should represent him. There was no reason that the investigation should cause a division in the firm, leaving him outside. He looked gratified by the support, rewarding me with his sweet smile, and I acknowledged his appreciation by smiling back at him, satisfied that representing him was the right thing to do. How could he hide anything from me?

Within a week, he confessed.

ILAN MET DENNIS LEVINE at the end of 1979 in the offices of Wachtell Lipton while working on one of his first deals. Ilan had been out of school only a couple of months and hadn't yet begun to work with me. Levine had been employed a little longer as an investment banker at Smith, Barney & Co. Both Levine and Ilan were part of a large team of professionals involved in the merger of Gifford Hill and Amcord, two cement companies. Ilan admired Levine's affability and easygoing manner. Though Levine was more knowledgeable than Ilan when they met, the balance would soon shift, and Ilan would remark that Levine was not a rocket scientist. He still felt, however, that he could never achieve Levine's level of grace and charm. Levine told him that he wanted to be his friend, and Ilan was flattered.

Was there something in Ilan that Levine could see that we could have or should have seen? I don't think so. What Levine did, which no one else could do, was test Ilan—and others. For example, at the time Levine met Ilan, he also met Dan Neff, who had been out of law school and with the firm about two years. Neff was the senior associate working on the Gifford Hill merger. Levine approached Neff in an offhand way and told him that they were fools for working so hard for so little when others were able to benefit from all the merger information. Everybody does it. Neff bristled and told Levine that it doesn't matter: there's no amount of money that justifies

the action. Levine, of course, backed off, and Neff, now a partner in the firm, would only think of the incident again after Ilan was caught.

That was the way Ilan was approached. He didn't strongly object, and Levine then knew that Ilan was vulnerable. After that he cultivated Ilan because he wanted a source of inside information at Wachtell Lipton, which was a center for merger activity. Ilan and Levine would have lunch together, and Levine would talk about his aspirations, and Ilan about his frustrations. Ilan wanted to be a partner in the firm, and Levine wanted to be an independent principal, with enough money to do his own deals. In that kind of revelation there is always a sense of intimacy. With intimacy, the groundwork of conspiracy is laid. When the parties conspire, it is as if the relationship has moved to a new plane: the secrets shared look like building blocks for friendship.

Ilan furnished inside information to Levine within six months of joining Wachtell Lipton. They met at the Plaza Hotel on Fifth Avenue, walked into Central Park, and sat on a bench. Ilan had set the place of meeting, on the street where there was no one to hear them or suspect the nature of their conversation. Levine told Ilan that he was familiar with foreign banking systems and arrangements and that he could set up secret or nominee numbered accounts through which stock trades could be made that were untraceable. If the information about proposed mergers was obtained early enough, Levine's trades would never be noticed. Ilan would share in the profits made from trades in which he furnished information.

The information Ilan had obtained Levine already knew from another source, making the event merely a dry run, though impressing Ilan with his knowledge. Subsequently, while walking on the street after lunch together, Ilan told Levine about the pending sale of the Jefferson National Life Insurance Company of Indianapolis. This was a deal that I was working on and had discussed with Ilan in order to keep him informed about all my work, although another associate was working on this particular matter with me. Ilan knew that it would be difficult to trace any leak to him because he wasn't working on the acquisition. From me he'd learned that there would soon be an announcement of the sale of Jefferson to

the Zurich Insurance Company, as well as of the price the Swiss company was prepared to pay, and he thus could calculate the rise that would occur in the stock price on the announcement. After again getting Levine's assurances that there was no risk of their being discovered, Ilan told Levine what he knew, and Levine purchased stock in Jefferson National.

Since Ilan was not working on the matter, he couldn't keep current with changes in the transaction, and didn't learn that the deal was about to fall apart. When I realized that the negotiations had definitely failed, I had the client promptly announce that Zurich had withdrawn. The Jefferson National stock price plummeted. Dennis Levine sold at a loss, and learned a lesson. He should only take information on deals that Ilan was certain of or those on which he was actually working. Ilan, however, resisted tipping Levine on deals in which he was personally involved. His reasoning was that he didn't want the tipping of information to cloud his judgment or color the professional advice he was giving to the client. When Ilan finally began tipping Levine on deals on which he was working, he gave Levine the information very early in the transaction, and would subsequently avoid any discussion about what Levine did with the information. Ilan thus would never know whether he stood to benefit from his action. In Ilan's mind, this distancing himself from his actions left him free to give appropriate professional advice. But by tipping on his own deals, Ilan increased his risk and was moved closer to exposure.

Dennis Levine told Ilan that he would set up a separate account for Ilan's share of the amounts Levine made on trades from information furnished or verified by Ilan. But Ilan rejected all offers to document the arrangement for fear that it would increase his chance of being caught. The basis of the sharing was never specified by Levine, although Levine gave Ilan supposed "accountings" as to amounts held for Ilan. Ilan, ambivalent about his activities, doubted whether there would ever be a payout.

IN SEPTEMBER 1981, when Ilan had been at the firm about two years, we discovered that Carlo Florentino, a partner in the firm, had been trading on inside information. The firm had hired Carlo

in the spring of 1979, about six months before Ilan joined the firm. He had worked at Davis, Polk & Wardwell for eight years, and as a fully trained journeyman lawyer, became a partner at Wachtell Lipton in January 1981. He was a shadowy figure for Ilan, less so for me, until Carlo confessed and left the firm.

Carlo precipitated his own exposure. He had a trading account at E. F. Hutton, in his own name and with Wachtell Lipton's address. Before joining Wachtell Lipton he'd used the address of his former employer, Davis, Polk & Wardwell, and had traded on inside information while an associate there. All of Carlo's trades were made through that account, which was ultimately his undoing. While his early trades hadn't been for amounts large enough to arouse suspicion, in 1981 he told his broker at Hutton to purchase over \$1 million worth of stock in a particular company, committing almost all the money accumulated in the account. A \$1 million trade was unusual for the broker. The one thing in Carlo's favor was that he was a partner in Wachtell Lipton. Everything else was against him.

Examining the account, the broker saw that Carlo never lost money and never sought advice from Hutton or discussed stocks. The broker called Hutton's general counsel, the firm's chief legal officer, who saw the problem immediately and called Martin Lipton. Lipton told him that someone from Wachtell Lipton would have to examine the account, and it was opened to the firm. The pattern in the account was obvious; each trade related to a deal Carlo was working on. When he learned about a bid to acquire a company at a premium price over the current market price, he'd buy the stock of the target company before the public was told. An initial few thousand dollars had been run up to over \$1 million. Carlo never took any money out of the account; he always reinvested it. The trades went back to the time when he was employed at Davis Polk.

Members of the firm confronted Carlo in his office. The door to the office was closed as Carlo met with the partners, and when Carlo realized that the firm knew about his account, he collapsed into a ball and started to cry. The shame was too much for him. In seeing his destruction, we all felt that we'd lost our innocence and would no longer freely trust anyone. We were rendered more

innocent, however, by our attempts at understanding. Rational analysis showed that Carlo was irrational. He was earning about \$350,000 a year as a first-year partner and could look forward to much more over the years. It didn't make sense to destroy this opportunity. On reflection, we noted a few unusual things about his behavior in the office. He had often complained about insider trading and was particularly secretive about his transactions. Sometimes even the associates working for him didn't know the names of the target companies, which was unusual.

After Carlo confessed, Ilan was very curious about him. Ilan came to my office and I cleared away some papers from my table, inviting him to sit down and share a moment with me while we talked about more than the day's events. Often we would discuss this deal or that, but it was rare to take a moment to reflect. Looking at the moment now, it appears very different from what it seemed then. Ilan knew about his own tipping activities, and I only knew about Carlo's insider trading. While we both had curiosity about Carlo, our questions were different, but then his questions seemed like extensions of mine. I asked: Why did Carlo do it? All I got from Ilan was a shrug, which meant that it was unknowable and anybody could speculate. He asked: What had happened to Carlo? I saw his question as merely different in emphasis. He wasn't asking about why Carlo had started, but what had happened to him once he'd started. I am transfixed by the exchange between us. It was a moment closer to revelation than any others because we were exploring motives. He didn't answer, but wanted answers from me. I had hired Carlo, shared his anguish over his not being made a partner at Davis Polk, and therefore knew more about him than most. In a speculative mood, I told Ilan what I knew.

I'd met Carlo for the first time when he was interviewing for a job at the firm. He'd been warned that he wouldn't become a partner at Davis Polk, but he didn't quite believe it. He was thin and intense, had dark, glistening black hair and bright, black intelligent eyes that were lively and took in everything around him. His résumé showed that he grew up in a working-class Italian family in Queens, had gone to Queens College, where he showed intellectual promise, graduating Phi Beta Kappa, and had gone on to NYU Law School, where he was at the top of his class. His background

was a comfort to me. It packed in a nutshell a lifetime of effort to excel and tested his discipline and intellect against others also disciplined and intellectually gifted. I respected his achievements and told him that we were interested. He'd never failed at anything and told me that he thought that there was still a chance for him at Davis Polk. He had given everything he had to Davis Polk and he wanted to stay there to see if they would keep him. I told him that we would wait for him to be ready. Within four months he called, devastated that he'd been dismissed. He wanted me to tell him that they were wrong, and he sought my comfort and confirmation of his worth. I told him that Wachtell Lipton had taken rejects from a number of large firms, including myself, and understood such dismissals. That appeared to be the assurance he needed, although we both knew that the social aspects of the rebuff couldn't be healed by Wachtell Lipton.

"His actions were self-destructive," Ilan said.

"It looks that way," I said.

Ilan ticked off the failures to conceal. "Keeping an account in his own name," he said, "was stupid." For Ilan that was the term of greatest condemnation, an ignominious and demeaning defect. The speculative moment didn't quite satisfy. I'd been able to muse, but couldn't see why Carlo would trade on inside information.

"Ilan," I asked, "why would he do it?"

"For the money." And then Ilan shrugged again, and I have his sweet smile in my mind.

"He never took the money," I said, satisfied with the last word.

What I didn't know then was that Carlo had once told Ilan that he wanted to be very rich. And Ilan believed that Carlo "took" the money because the account was directly under his control and accessible to him, in a manner never available to Ilan in his arrangement with Levine. Given the openness of the account, Ilan was sure that Carlo paid taxes on the trading profits, a tangible step very close to taking the money. Ilan didn't explain these distinctions to me, which would have given him away, leaving me to feel that I'd made a telling point. Ilan's silence in response to my comment was meaningful only later. But by then the moment was gone.

Despite the damage to the firm, including adverse publicity,

Wachtell Lipton rallied to Carlo's defense, convinced that his actions proceeded from forces beyond his control. In that view, Carlo was a victim and shouldn't be punished. As a firm, the partnership pleaded with the court not to put him in jail. The firm sent a letter, on behalf of the partners and associates, asking for clemency. The court also saw Carlo as sick and pitiable, and was lenient. His trading account was taken by the government, and he was suspended from law practice for five years, but he wasn't disbarred from practicing law or sent to prison, nor did he sustain fines or any other penalties.

The firm concluded that others—not us—had ruined Carlo. He had been cheating before he came to the firm and that relieved everyone in the firm of guilt. If his sole working experience had been at Wachtell Lipton, we might have thought of the firm as the root cause, as if the pressure of the practice generated his behavior. Wachtell Lipton concluded that the solution to the problem was to stop hiring people who had worked at other firms and only hire directly out of law school. Our innocence comforted us. With changes in hiring policy, no one expected to see a repeat of his behavior. We also concluded that Carlo was unique. Whatever my doubts, I accepted the collective conclusion. It took five years to discover Ilan's breaches of trust.

NOTHING IN THE way Carlo was caught could lead Ilan to believe that the same thing would happen to him. Nonetheless, Ilan gradually tried to extricate himself from Levine, and for over a year, beginning in 1983 and until the spring of 1984, Ilan refused to give Levine any information. To counter Ilan's resistance, Levine asked him, at various times, if he wanted money from his account. Ilan always refused the money. But Levine kept telling Ilan about his share. In the spring of 1984, Ilan resumed giving Levine information, and Levine insisted on regularly mentioning the amount Levine allocated to Ilan. In the last such description, Levine told Ilan that there was \$300,000 for him.

Ilan would say: Dennis Levine is my friend. But on this new plane of shared secrets there were new rules. Ilan had to have a

basis for extrication. There is rarely a reason for thinking about how to extricate yourself from your friends. Here, however, there had to be a way out. For Ilan, the way out was deniability. He'd signed no papers, opened no accounts, had access to none, and had taken no money. Several months before he became a partner he stopped giving Levine information. He could say: I was never a party to this. I never exchanged any information. Levine, however, wanted him entwined. Ilan would tell him: "You are to tell no one about us." And Levine would assure him that he had told no one. But Levine was uncontrollable. He told Robert Wilkis, part of his ring at the investment banking firm of Lazard Frères & Co., that he had a source at Wachtell Lipton, whom he described as being "a young associate close to Lipton" to give credibility to his statement. Levine wanted to hold a dinner party for all his informants so they all could meet each other. Ilan thought Levine was crazy and told him so in vehement terms. Frightened of exposure, Ilan told Levine that he wouldn't go to the dinner.

It wasn't exposure that Levine sought. He wanted to tie everyone to him. He was the hub, and the others were the spokes. There was power in having a hold on others, and Levine wasn't about to relinquish that power over Ilan. Noting that power, Ilan saw his vulnerability. Also contributing to Levine's power was Ilan's well-known friendship with Levine. If Levine was caught, questions would be raised about what they did together. If enough questions were asked, there could be damaging answers. At various times, Ilan told me that he was trying to get Levine to use the firm on his deals. Levine was moving up the investment banking ladder: he had gone from Smith Barney to Lehman Brothers at a more senior level. But I had worked on a deal with Levine and was not impressed. Ilan told me that I underestimated Levine and should have lunch with him sometime. He was offering me a reason other than friendship for their meetings. I never had lunch with Levine.

Levine always gave Ilan the impression that he was making a lot of money at his jobs. After he moved to Drexel Burnham from Lehman Brothers in the fall of 1984, he told Ilan, who had just ceased giving Levine any information, that he was being paid so well it was "almost enough to make me an honest man." Ilan took

that to mean that Levine was nearing his financial goal, but given the glee with which it was said, Ilan was certain that the goal would soon increase.

On May 12, 1986, Ilan was with his wife, Diane, at a black-tie fund-raising dinner for Mount Sinai Hospital, held at the Waldorf-Astoria, when she heard that Dennis Levine had been arrested. Ilan had heard the news earlier in the day. The room was filled with lawyers and investment bankers who knew Levine. Levine was supposed to be at the dinner but had been arrested in the afternoon and spent the night in jail. The room buzzed with speculation. Ilan's face showed a certain confusion. Diane, aware that Dennis Levine was Ilan's friend, told me that when she saw Ilan's face she first suspected that he might be involved with Dennis's illegal trading.

It was inevitable that Levine would get caught. His assumption was that early purchase activity, long before there were any merger rumors, wouldn't be picked up on any enforcement radar screens. As convincing as that may have been to him, he was looking at only one source of exposure. In that environment there are always numerous sources for discovery. In Levine's case, certain brokerage employees in a Merrill Lynch office in Venezuela noticed the successful trading of a certain Bank Leu account in the Bahamas, which confirmed for them that there was smart money at work. They didn't know the owner of the account and didn't care. Their interest was in making money by doing the same thing. Nothing prevented the Merrill Lynch brokers from making trades paralleling the smart money Bank Leu account. That is what they did until a disgruntled Merrill employee, not included in the trades, sent the New York office an anonymous letter reporting the activity. The New York office sent the information about the Bank Leu account to Gary Lynch, then head of the enforcement division of the SEC. It didn't take the SEC long to pierce the veil of secrecy surrounding the numbered Bank Leu account and uncover Levine and his trading activities.

Once Levine was arrested, Ilan was forced to consider what Levine might reveal. Thinking about it was painful and enervating. Shortly after the arrest, while on a business trip in Southern Cal-

ifornia, Ilan contemplated suicide. He drove his rented car to a cliff and stared down, thinking of killing himself. What stopped him was his ability to deny everything. Who would believe Levine? That had been his plan all along, and he would adhere to it.

On the red-eye flight from Los Angeles to New York, he listed, on a yellow legal pad, the facts as he saw them: he never took any money; there were no records; and no one involved knew his name except Levine. On the pad he filled several pages with his analysis to confirm the common sense of his plan, but he had nagging doubts about his ability to disclaim everything. Levine had lied to him about the amount in the account. When caught, Levine had \$12.5 million in his account, much more than Ilan had ever imagined. Suppose Levine had told someone about him. While possible, it wasn't likely. It was wrong to speculate, and he would only deal with known facts, which limited what he could put on his yellow pad. The known information showed that he had been careful. Who would believe Levine? Didn't that make him safe? He had no one to talk to or confide in, and the only exterior expression of his situation was on that pad. The pad, with the list of known facts, told him that he had to adhere to his plan.

Once Ilan concluded his analysis, he acted as if he was unaffected by Levine's arrest. There were moments when the stress may have showed, such as the transaction in which Drexel Burnham was leading a bid to acquire a Wachtell Lipton client and Ilan found out that Drexel Burnham had represented the target company a number of years before. Here was a possible conflict of interest. Ilan decided, with the client's permission, to take out a full-page advertisement in *The Wall Street Journal* questioning Drexel Burnham's integrity for being on both sides of the transaction. Specifically, he wanted to embarrass Drexel Burnham by mentioning Dennis Levine and questioning whether Drexel Burnham should play so fast and loose with client relationships. Since he was challenging Drexel Burnham's integrity, he showed the text he'd prepared for the ad to the litigating partner working on the transaction to see if there were any accusations that might be considered libelous. The partner was disturbed by the text and brought it to Lipton. Lipton told Ilan not to do it: it went too far and wouldn't

work to benefit the firm's client. It was a strange moment, perhaps the final assertion of integrity. Or was it an involuntary scream of pain?

When the SEC issued a subpoena for the firm's and Ilan's records on Tuesday, July 8, 1986, the firm assigned four partners to respond. They confronted the SEC, demanding that the subpoena's scope be narrowed. The SEC saw that the firm was serious in protecting itself and one of its own and told the four partners to get Ilan separate counsel, that the firm's interests were adverse to his. In that confrontation the SEC did a curious thing: the SEC staff told the Wachtell Lipton partners to ask Ilan about certain specified transactions. That was a signal that the SEC had more concrete information than anyone at Wachtell Lipton anticipated. And then the SEC staff told the partners that Robert Wilkis, a young investment banker who had previously been arrested, could confirm Levine's accusations against Ilan.

The Truth Squad, as Ilan named the four partners, called him in to talk on Monday morning, July 14, 1986. They had spoken to him just after he first received the subpoena, as part of their preparation of Wachtell Lipton's response. It was then that Ilan chose the name for the group, because of their probing questions. They were: Herbert Wachtell, Bernard Nussbaum, Lawrence Pedowitz, and Allan Martin. The first three were former assistant U.S. attorneys, federal prosecutors, and Allan Martin was formerly a trial attorney with the Enforcement Division of the SEC. As a deal strategist, Ilan was more than their equal, but he couldn't rival their tenacity or their analytic ability to use facts with precision, to find inconsistencies, and to reconstruct and order events into patterns that fully illuminated them. Each was older than Ilan, none a friend. Wachtell's mind was like a razor; nothing could deflect it. Nussbaum was warm and affable, but always astute; he would try to keep the hard edge of the inquiry from driving Ilan from the room. Martin had total command of the facts and all the intricacies of the deals involved. Pedowitz knew all the nuances of the rules. They advised Ilan at the start of the meeting on that Monday morning to get his own lawyer. Ilan knew that their commitment was to the firm and that they wouldn't give him the benefit

of any doubt, but he told them he didn't need a lawyer. He felt that nothing he'd done would show up.

They spent the day with Ilan, doing good guy–bad guy routines. All of them left the room at some time, but one of them always remained with Ilan. The buffering of polite conversation couldn't conceal the deadly game at work. Ilan fully understood what they were doing, and denied wrongdoing. They had, however, something he didn't know they had: a list of deals provided to the SEC by Levine. Slowly they started narrowing the list, reviewing the cases. It was clear then that Levine had said he'd gotten information from Ilan in certain matters in which only Ilan would know such information. Ilan continued to deny, and they faced the question of whether they should actively encourage him to leave the conference room and get his own lawyer to deal with the SEC. If Ilan was guilty, they wanted to know: it was better for the firm, for everyone. But they advised him again that he could leave the room and that he had the right to consult with his own counsel.

He stayed in the room and denied everything for six hours. He ate no food, although sandwiches were available. He had a legal pad by him and doodled on it. The only information that reached him from the outside consisted of details about the status of the various moves in the takeover battle for control of NL Industries. Ilan was running that deal. He was the one person who knew all its aspects, and members of the Truth Squad fed him the information to get his reactions and suggestions. Those moments distracted him from his predicament, probably sustained him by renewing his sense of worth and command, and assured him that suspicions weren't deep enough to take the NL Industries matter away from him. Everyone in the room was impressed by his ability to concentrate on the takeover battle and not be distracted by the events in the room.

Why did Ilan submit to interrogation and then stay in the room? Believing in the wisdom of his original plan, he thought he could outwit them. An innocent man, however, would have been likely to walk out of the room, angered by the indignity of the interrogation. By staying and responding to the questions, he gave them information, raised doubts in his own mind about his legal position,

and watched their confidence grow. After about six hours he understood that while he had relied on the fact that he had not taken money as the basis for deniability, they thought that they could prove the crime through the information passed. Some of the information Levine had traded on, they claimed, could have been known only by Ilan at the time. He now knew from them that someone, possibly Wilkis, could corroborate Levine's testimony about receiving inside information on certain Wachtell Lipton matters although Wilkis didn't know Ilan's name. Ilan recognized how damaging this corroboration was. At that point he asked to be given time to think matters through, giving no indication, however, of what he would do. They asked if he wanted them to leave, and he said no, they should stay. Ordinarily someone thinking through such matters would want to be by himself. Ilan, however, wanted to show them that he was doing all the thinking alone and wouldn't use the phone in the room to call outside. It was an assertion of his internal fortitude.

Sitting in the conference room, Ilan tore off the pages of doodles that were the product of his nervous energy, and on a clean sheet of paper tried to calculate whether he was caught. Again the pad became his external reference point, although it reflected only his point of view. He reasoned that over time they could possibly isolate a deal that only he knew about when the information was given to Levine. Wilkis would be credible because Levine had told him about Ilan long before Levine was caught, but Wilkis had only a description and not a name. From Ilan's perspective, it wasn't clear that they could snare him, although they claimed there was no doubt. But Ilan was exhausted from the strain of being hunted. Although he'd contemplated possible confrontation with investigators on his trip back from California, the reality was more demanding than he'd imagined and their tenacity more devastating. With the four partners sitting silently in the room, he listed for himself his logical alternatives: he could fight and continue to deny wrongdoing; he could commit suicide; or he could confess. For him, the list was rational and the range of choices confirmed its completeness. He didn't relish fighting, for he had already begun to experience its personal toll and he didn't have the economic resources for a sustained battle. He contemplated suicide with all its finality, ending

deceit and pain. Confession would also end deceit and reintegrate his life, allow him to find equilibrium and reset his compass. Confession offered an avenue to a new life, but before he found a new life he would experience all the agony and horror of being pilloried, all the afflictions of retribution. But whatever the punishment, it wouldn't last forever. He could see a new life in five or more years. At least forty-five minutes passed as he wrote out his options and considered them. He took his time with each of the choices. The partners remained silent throughout. Finally, he decided to confess.

When he turned to the four partners in the conference room, he was crying. He'd already begun to experience the sickening distress of exposure. His crying was uncontrollable and heartrending. With a face wet from his grief, he confessed, telling them that he'd considered committing suicide. He told them he hated his life. He told them about how he had always lived under the shadow of his older brother and about how he'd become distant from his parents. He told them he was unhappy in his marriage. He sought and found, he believed, catharsis in confession. He cried again after baring everything, shaken by his own confession, and his personal misery. They called in Robert Morvillo, an able criminal lawyer, who had also represented Carlo Florentino on the firm's recommendation. Morvillo talked to Ilan and listened to his story and afterward said he'd never seen someone so distraught. He asked them to put on a suicide watch for Ilan.

Martin Lipton called me at home early in the evening and told me that Ilan had confessed. Lipton was shaken and told me that Ilan had apologized to him and to me, recognizing that he'd hurt us and hadn't meant to do so. Lipton told me that Larry Pedowitz was also concerned about Ilan committing suicide and that Ilan would stay at Pedowitz's home for the evening. Ilan, he said, wanted to speak to me and would call me. When I hung up the phone, I cried.

ILAN CALLED ME about 9 p.m. from Pedowitz's apartment, and we were on the phone for about three hours. He told me all that he had said to the Truth Squad. The confession was a moment of great

despair, he told me, but in that despair he'd realized that he could, and would, start a new life. Diane was pregnant, and there would be a third child. But he was thinking of leaving his wife as a step in beginning his new life. I told him there was no such new life, there was just his old one, and he had to put that together again by seeing his wife and talking to her. If he couldn't talk to his wife, then he had to talk to his parents and make peace with them. The family would be hurt, and he had to deal with that hurt and seek comfort from them, because that would be the only comfort that he would get. I told him that most people outside of his family would be angry and want to see him punished, and that he had to be prepared to face that anger.

Our talk finished at midnight, and Ilan tried to telephone Diane at their summer house on Long Island, but the phone was either disconnected or off the hook. He then called his parents and told them what he'd done. They asked about Diane, and when he told them he couldn't reach her, they decided to drive to Long Island to the summer house and bring her home to New York. It was after 1 a.m. when they started out. Partway into the trip their car broke down. They wound up at an all-night Long Island gas station, where they were fortunate enough to find a lift to the summer house. Already shaken by the message they carried, they were further upset from the delay. They arrived at about 5 a.m. and woke Diane by tapping on the windows, frightening her. It was she, the person they had come to help, who ultimately comforted them and helped them back to the city. In helping each other, they were drawn closer together.

I wasn't able to sleep that night. Obsessively, I reviewed all I knew about Ilan. Nothing in his behavior had hinted at his deception. Even in retrospect, I couldn't find strange behavior. It was as if another person had betrayed our trust—not Ilan. I saw a fine person destroyed, losing his profession and forever marked. I thought of the firm. It had been hurt again at the partnership level: first Carlo, then Ilan. It was demeaning to have to face the fact that no other firm had experienced such significant breaches of trust by two partners. Could the firm withstand the revelations? I was confident that the firm would be able to ride out the rough

time ahead. But how could it have happened and what if it happened again?

There was a troubling difference between most of the older partners and the young partners and associates, despite common background, common schools, and even common friends. The difference was more than one of age. The founders and most of the early members of the firm were largely committed to independence (and personal expression) in the formation of the firm. Monetary rewards were secondary, since their talents could usually command more at established firms than a fledgling organization could provide. The people who came later were often picked by the firm to preserve what had been developed, and they in turn were attracted by the success of the firm and the money that such success generated for the partners. Everyone in the firm was well off, but generally, in my view, the young partners seemed to want to own more things than many of their elders. Ilan, when he became a partner, promptly bought a brownstone on the West Side of Manhattan. Was this difference a source of the firm's problems with Carlo and now Ilan?

I was trained to pull together disparate facts and to try to predict events that the facts presage. I tried here, but I wasn't able to anticipate, from all I knew, the twists and turns that would follow Ilan's confession or its effect on the firm or on me.

THE PARTNERS HAD seen how the pain of confession had immobilized Carlo and rendered him incapable of defending himself, and for that reason the firm recommended a psychiatrist for Ilan to help him handle his pain and to prepare for his defense. We all thought there would be great suffering, and we were prepared for that. Ilan, however, was not like Carlo. Within a day of his confession Ilan called everyone he'd been working with in the firm, proposing lunch and asking about the status of the NL Industries transaction. This was unexpected, since Ilan was withdrawing from the firm and arrangements were under way to end his status as a partner. For Ilan to try to maintain friendships was also confusing. Many of the older partners, who had judged Ilan favorably at the time

of his admission to partnership, felt deceived by him and remembered his arrogance. They experienced an unraveling of their feelings to those of an earlier time when they had first judged Ilan and found him wanting. Those younger than Ilan, for whom he'd been a mentor, were more willing to treat his deceit as aberrant and try to keep the friendship. Some people waited for the firm's official reaction to tell them how to act. That would not be forthcoming, because the differences of opinion among the partners were deep, unusual for the firm. Associates who had worked with Ilan and some young partners asked me if they could have lunch with him. I told them that they could. It was a positive step, I thought. Ilan hadn't, like Carlo, become crushed or turned on himself.

Within a few days complex issues emerged. It seemed that Ilan had recently withdrawn about \$300,000 from the firm. There were no restrictions on a partner withdrawing money. The money, together with his other drawings from the firm, was slightly less than his anticipated pro rata share of firm income at that point in the year. Ilan used the funds to pay down the mortgage bearing a high interest rate on the brownstone he'd bought a year earlier. He'd made the arrangements to pay down the mortgage and withdraw the funds from the firm, plus arrangements for an additional borrowing of \$125,000, from Chemical Bank on May 7, 1986, about five days before Levine was caught. The transaction was not effected until the end of the month, however, after Levine's indictment. Once Ilan confessed, the drawing of the large sum angered many at the firm, and they repeatedly described it to those people who still talked to Ilan as a scheming, manipulative act. They didn't know that Ilan's action had been initiated to reduce interest costs before there was a tangible threat of discovery.

Having Ilan's confession, the SEC then dealt with his lawyer over settlement matters. Ilan regularly visited his psychiatrist and his lawyer and grew restless, for he had little to do other than working around the house and taking care of the children. At his request I met him in front of the Plaza Hotel and shared lunch with him on a bench in Central Park, unaware then that I was following with him the same route he'd taken with Levine when he first gave him inside information. Ilan's selection of the meeting place was unconscious, or at least he never mentioned its significance to me.

He wanted to discuss his efforts to have the firm stand behind him and help him avoid prison. He was seeking the support Carlo had gotten, and was having difficulty in assessing the reaction of the firm to his requests. In the firm, there was more anger than sympathy, which he could now realize, for I was one of the few people who would have lunch with him. As a consequence, his window into the firm had been closed.

Ilan spent a lot of time speculating about how the various partners would act in terms of helping him. What he didn't understand was the degree of confusion. Lipton would ultimately determine the firm's point of view. At that moment Lipton was uncharacteristically ambivalent, sympathetic but prepared to embrace other points of view because he didn't want a division in the firm. Lipton had asked me, one day when I was in his office on another matter, if we were responsible. He took me by surprise because until then I didn't fully appreciate what had been troubling him. I had felt responsible for Ilan, but I thought my feelings were different from those of my partners because Ilan and I were close. Nevertheless, I had quickly answered: No. How could we be responsible? No one knew the rules better than Ilan, and no one had ever been more carefully instructed and nurtured. Lipton's concern was that we had raised Ilan as a lawyer and we were responsible for him. I could understand his disquiet, and my denial of our responsibility didn't resolve the question. It continued to trouble him and me and others for months.

The firm, still a relatively small, cohesive group, wasn't used to factionalism. While many wanted to be humane, there were strong feelings against forbearance or clemency. The members of the firm trusted each other's judgment in all working matters. Our language was abbreviated, a shorthand that was almost a code (which I discovered when I taught at law school and had to define all my terms). Molding objectives for the clients, partners anticipated each other's actions and solutions to problems. Now we disagreed over what to do with Ilan, and we discovered ranges of differences we'd never known. The resulting tensions and ambivalent feelings weren't easy to deal with. Every action taken by the firm was by consensus, and here, since there was none, the firm was stalled. Ilan, singularly seeking clemency, and used to quick decisions and

decisive actions in the firm, couldn't appreciate the extent of the ambivalence. He treated the hesitancy as negative, which depressed him.

Sitting on the park bench, Ilan and I talked about his future, and I asked him if he wanted to teach. He wasn't interested in teaching. That was something I would do, but it wasn't for him. He would look for a position in business or investment banking. Enjoying the shelter from the summer heat provided by the park, we digressed and talked about a Walker Percy novel we'd both read. Discussing books was something we had done before. It was easy to fall into familiar patterns and he brought up the business of the firm and the deals we were in. But these were topics I refused to discuss because Ilan would never again be a part of the firm. Although I was meeting to help him ease his pain, in my refusal to share the firm's work with him, I became a reminder of his banishment. When I left him he started to walk to his psychiatrist, having time to waste.

THE SEC PLANNED to bring a criminal action against Ilan through the U.S. attorney. The only dispensation they offered was an agreement not to seek maximum penalties for Ilan's crime provided that he turned over all his money. The SEC was particularly harsh in defining what this meant: they demanded the capital in his pension plan, his capital in the firm, all his personal savings, and the entire interest in the brownstone and in the summer house, which included the recent drawings from the firm. The demand totaled approximately \$1 million. The SEC took the position that Ilan was liable for all profits made from tips given by him whether or not he had received any of the profits. Unlike Levine, Ilan had nothing with which to bargain, and he was outraged because he'd never taken any money. His culpability, he felt, didn't justify their demands for money that he'd earned himself. The SEC had already retrieved all the ill-gotten gains from Levine. They were trying to collect twice. His counsel told him that the court was unlikely to impose such a heavy monetary penalty; fines would be minimal compared with what the SEC was trying to extract, and the court would mete out punishment through a jail sentence. His counsel also held out

the hope that the jail sentence would be nominal or would be suspended.

The SEC's position contained a further threat, in addition to seeking maximum penalties. They stated that if Ilan didn't cooperate by settling on their terms, they would list in the official charges against him each of the deals in which he had passed on information to Levine. The period covered was about five years, and there were numerous matters involved. The complaint would show that his actions were not some slight momentary fall from grace, but a pattern of illegal activity. Ilan didn't want that displayed, because it would bring further embarrassment to himself and to the firm. And the firm worried about all the matters being recounted since a full listing could have the effect of encouraging people to bring civil claims against Wachtell Lipton. The firm also wanted Ilan to settle because it was felt that it would put the matter to rest. No one wanted the abuse of trust by a partner to be restated in the newspapers every time there was a motion made in his case, which could drag on for some time.

Although the firm's and Ilan's objectives were substantially the same, Ilan wanted a concession from the firm. He sought agreement or a tacit understanding that if he gave up his money, he'd be doing it for the firm's benefit, which meant that the firm would seek leniency in his sentencing and would give him money in settlement of his partnership interest after his conviction. He sought a letter from the firm and from key partners asking the court not to send him to jail, and wanted an agreement that he would be treated with the same compassion as Carlo Florentino. The firm wouldn't, and didn't, make any promises to him. He was told that he would be judged when the time came for judgment and he shouldn't have any illusions. However, he responded that he was helping the firm. Accordingly, he said, the firm had to be sensitive to the problems he faced and the concessions he'd made in light of the fact that his lawyer had advised him that he was better off fighting than conceding.

Finally, Ilan's lawyer negotiated a settlement in which Ilan agreed to pay the SEC \$485,000. Ilan retained only his residence, the brownstone on the West Side of Manhattan. Diane, however, refused to accept the SEC settlement until they agreed to allow her

to retain her one-half interest in their summer house. The SEC's complaint against Ilan mentioned his involvement in tipping on twelve matters and described only two of them with specificity. Later on, however, *The New York Times* and *The Wall Street Journal* reported on the deals that Dennis Levine had been involved in and mentioned the firm's representation of one of the participants, publicity that could not be controlled and was considered damaging.

THE MEMBERS OF the firm decided that there would be no official Wachtell Lipton letter written on behalf of Ilan, but that if any partner or associate wanted to write his own letter he could do it as a matter of conscience. Given the anger, and the fear of lawsuits against the firm, that was a substantial concession. It was an acknowledgment that there were people who cared for Ilan and that it would create an irreparable division in the firm if those feelings couldn't be expressed. I worked on a letter over one weekend and sent a copy to Lipton. My letter was an emotional plea for mercy, and after reading it, Lipton concluded he would join my letter, and encouraged clients to send letters also.

Ilan called several clients with whom he had worked and asked them to help him. On the advice of his lawyer, Robert Morvillo, Ilan also gave an interview to *The American Lawyer*. The article gave the facts of the insider trading and treated him like a brilliant but naïve prodigy. Since he'd taken no money and had given up everything, the article engendered sympathy from all quarters.

Although he had no control over its timing, the story on Ilan was published before his sentencing hearing, and it looked like it would be helpful. Also, after its publication a number of people came forward with offers for jobs of substance. People close to Ilan had already offered him employment, but others, now seeing Ilan portrayed in a sympathetic light, could appreciate his ability and believe that he would never break the law again. It seemed likely at this point that he could have a fruitful career in business. He wouldn't be able to act as a lawyer, but often the financial rewards are greater for those who act as principal or, like investment bankers, represent principals in their deals.

There was some reason for Ilan to hope that his sentencing would be light. David Brown, working at Goldman Sachs while part of the Levine ring, got only thirty days in prison, to be served on weekends. The most difficult hurdle Ilan faced was that he was the only practicing lawyer involved in the Levine scheme, and the court would take that into account.

At his sentencing Ilan made the following statement to the court:

I pleaded guilty because I am guilty—guilty of criminal conduct, guilty of gross stupidity and guilty of betraying my family and my partners. I am making this statement not to excuse my conduct but to clear up what I did and to express my sorrow and remorse. I apologize to my family, my partners, and the firm's clients for my conduct, and stand ready to suffer the consequences of my actions.

Despite the numerous letters urging that Ilan not be sent to prison, Judge Robert Sweet felt compelled to sentence him to serve a year and a day. In his opinion of January 23, 1987, Judge Sweet, who hadn't sentenced any of the others involved in Levine's ring, said:

If this sentence involved just you and your family, the outcome would be that you have suffered quite enough for the tormented acts you committed. But unfortunately, the sentence involves all of us and the strength of the laws of our society. Simply stated a breach of trust at this level with this effect requires a jail term as a deterrent, as a statement by our society that its rules must be obeyed and that personal integrity remain a paramount requirement of our society.

The court also concluded that Ilan was not motivated by greed or ambition, but by a need for friendship, and stated:

Dennis Levine took you. He gave you that special feeling of belonging, as well as a sense of guilt because you knew what you did was not right, but wrong.

The conviction required under New York law that Ilan be disbarred. The law had been changed after Carlo's conviction. Judge Sweet addressed the issue by saying that he would personally back Ilan if he sought at a later date to be readmitted to the bar. The court was aware that his wife was pregnant and would be delivering within days of the decision. The court gave him two months after the birth of the baby to put his affairs in order before reporting to the federal prison camp at Danbury, Connecticut.

WHEN THE BABY was born, I visited Diane at New York Hospital. Ilan was home taking care of the other two boys since there was no one to help at home. Diane was in the maternity ward, with four beds in the room and little space for guests. Minimal privacy was provided by a curtain which did not draw completely around. Her mother was at her bedside keeping her company, comforting her. Capable and intelligent, Diane had accepted, without rancor, what had befallen them. She didn't criticize Ilan, in spite of knowing all that he'd said to others about their marriage. Seeing her with her mother, I felt that I was intruding. I stepped out to leave them alone, telling them I would look at the baby.

I met Ilan's parents while I was viewing the baby. They too had stepped out of the room to give the two women some privacy. The hall was better lighted and less cramped than the ward. Ilan's mother turned to me and asked why the judge had been so hard on Ilan. I gave the conventional answer: he felt he had to make an example of Ilan, who should have known better. It was an unusual moment, for there was little more that I could say, but we stood together observing the infant behind the glass, allowing time to pass, as if our thoughts were being shared. The infant was sleeping serenely, born unblemished. I looked at him with the knowledge that there is so much that can go wrong, despite a parent's best efforts. And then Ilan's mother looked into my eyes and asked me, pointedly: Why did Ilan do it?

It was a question that she had obviously asked of herself and others. She thought that perhaps I could tell her the answer, but I couldn't. All I could do was speculate, and sadly, one doesn't

speculate about such things or discuss them with parents, however great their right to know.

I don't know, I said, and took her hand and kissed her cheek before I left.

A week later there was a bris, the ritual circumcision of the son at Ilan's home, which was a concession to the family. There was a good crowd, including some clients Ilan had represented, a number of the firm's associates, and family and friends. I was the only partner attending. I told Diane that I thought there was a good turnout and she told me, in an acerbic way, not as good as eighteen months before for the second son. But thus far Ilan had survived the ordeal in a way that Carlo Florentino had never been able to do. Being open about his disgrace, it was as if he were no longer disgraced. All the people there wished him well, and there was optimism for the future.

ILAN WAS PREPARING to go to prison. His chief concern was the money his family would need while he was away. He called me about three weeks before his sentence was to begin in March 1987 and asked me over the phone if I would lend him some money. I told him that we should have lunch and talk about it. About a week later we met at the Brasserie, in the Seagram's Building, and sat in a booth for two, facing each other. Floor-to-ceiling dividers between the booths gave a sense of privacy, and so separated, except for people seated with their backs to us at the adjacent counter (which curiously added a sense of remoteness), we could be open and direct. He looked tense, but as I examined him I saw that he'd retained his ability to relax, soften his features, and exude confidence. When he spoke, his voice was well modulated and resonant.

He told me that he wouldn't need money from me after all, that he intended to seek financial help from the firm to ease the burden of a year without income and the considerable expense of his legal bills. He had already asked Milton Gould, the senior partner of Shea & Gould, to represent him and present his interests to Wachtell Lipton. Ilan had chosen Milton Gould as a person whom the firm would respect and recognize as a wise man. Gould would be

trying to get payment from the firm for Ilan's remaining partnership interest, in effect asking for Ilan to be treated like the partners who retire or leave the firm for other employment. In those instances there were varying amounts of the firm's receivables paid to them after their termination.

If there was any noise in the room, I didn't hear it. Although Ilan didn't see it, this action was likely to offend everyone. His asking a prominent New York lawyer to get in the middle of the firm's internal affairs would not be easy to accept. These were private matters to which no one on the outside had ever been given access.

I asked him: "Ilan, why did you do that?" I was aware of the tenseness in my voice, although I tried to control it.

When he answered, he harked back to October 1986 when the settlement with the SEC was being discussed. He was explicit then in stating that someday the firm should expect him to come back asking for financial help. There was a tautness in his voice when he spoke, revealing the pressure of his imminent prison term.

"Where are you getting your money from now?" I asked. Although disconcerted by his actions, I had a line of questions previously thought through because he'd asked me for a loan. This was the first of the questions I was going to ask him, all designed to explore whether he needed to borrow money.

"My father is giving me money," he said. His voice was less strained now. "But my father is borrowing against his real estate investments. His investments are illiquid. It's very hard on him."

"How much equity do you have in your house?" I asked.

"Five hundred thousand dollars," he said without hesitation, knowing precisely what he was worth.

I paused to evaluate his answer, thinking he was a bit optimistic in his assessment of value (assuming in my calculations that it was worth \$300,000, about what he'd taken out of the firm to pay down the mortgage), but it was an honest response, which took into account all the equity, and favored the direction of my questions.

"How much do you need to live for a year?"

"About one hundred thousand dollars," he said, seeing where all this was leading, but directly responding.

"Then sell the house," I said. He couldn't borrow against the

house because he had no job and his employment prospects were, at best, cloudy.

"I won't sell the house. We need a place to live," he said firmly. That response attempted to dismiss my conclusion, as if the equity in his house didn't exist. He wiped some bread crumbs from the table.

"You don't need to live in a brownstone in Manhattan. You can rent a house in the suburbs," I said, taking him back to the point.

Ilan said, "I don't want to live in the suburbs." His tone was even, but he was annoyed with my statements, telling me by the irritated curl of his lip that I should know him well enough not to suggest that.

"It's not you that's going to be living in the suburbs. And if Diane wants to be in Manhattan, rent an apartment." I wouldn't let it drop, despite his frowning.

"I'm not going to sell the house," he said, the tautness back in his voice to end the discussion. What he didn't say, and what I found out only later, was that he and Diane didn't relish the thought of uprooting the family, especially when Ilan wouldn't be available to help in the transition. The house was their only anchor to the life they had, and with the birth of the third child, change was too much.

"You feel guilty," I said, "because you're hurting your father, but there's no reason to do that to him. You can take care of yourself."

"The firm knows that I need financial help," he said, "and no one objected when I said I would come back for help." He was full of conviction. One of his hands on the table closed tightly.

"No promises were made. And sentiment has changed."

"Gould has made an appointment to see George Katz tomorrow," Ilan said. "I wanted you to know about the meeting. I didn't want you to feel that I had blindsided you, and so I held it off until I could see you." His voice was sincere, expressing his concern that I shouldn't be adversely affected in the firm by his actions.

"Does George Katz know the reason for the meeting?" I asked.

"No," he said. "Gould didn't tell him."

"I have to tell him."

"That's fine," he said, nodding, anticipating that I would have to do that.

“You won’t get anything, Ilan,” I said.

“That’s up to Milton Gould,” he said, his voice rising.

Someone turned from the counter to look at us, and I waited until the person turned away. Ilan believed that he had acted in the firm’s interest in settling with the SEC. He had gotten very little out of the settlement, other than avoiding costly litigation. The devastating result to him from the penalties imposed, including a prison term, seemed to foster his belief that he’d sacrificed himself for the firm. Carlo never had to surrender his savings or serve time in prison.

“There’s only one way you could have gotten money,” I said, sidestepping confrontation. “You had to ask Lipton. No one else would be sympathetic.”

“I thought about it,” he said. “I thought a lot about it.” His hand spread out on the table and he slowly drew a series of circles as if following the pattern over and over again, showing the degree to which he had thought about it. “I can’t ask Lipton. When I wrote to him to ask him for a letter to the judge, I said I wouldn’t ask him for any more favors. I meant that, and still do. But I cleared the path in October for a request for money from the firm when I told Bernie Nussbaum, and he told everyone, that I would be coming back with a request for financial help. Do you see my situation?” He paused and looked at me to see if I could appreciate the course he’d followed and where it all led. “But the SEC took all my money away. I earned that money. I wasn’t like the others,” he said, referring to the larger circle of inside traders, which in his mind included Carlo. “I never took any money. They took bagfuls of money.”

There was no doubt that he’d never taken any money. Judge Sweet thought that he was hungry for friendship, and thus was seduced by Levine, who offered friendship. Sweet concluded that Ilan’s motives weren’t greed or ambition. But Carlo had never taken any money either (although he had ready access to it and might have ultimately taken it), and he wasn’t twisted by a co-conspirator. What was it, then, that drove them over the edge? In my mind the link between Carlo and Ilan was their fear of failure. They both experienced it early and were driven by it. If success eluded them,

they would seek money to cushion the loss. While their histories and actions were different, they responded to the same fear. Ironically, the firm offered both of them success, the antidote to their fear. For Carlo, it was too late because he'd already experienced failure at Davis Polk. From the start Ilan hadn't trusted the firm to make him a partner, and he gave away inside information shortly after he began working, well before he had any serious problems in the firm. By not touching the money, each sought to keep his integrity intact. Carlo kept the money within his grasp. For Ilan, the money was outside his control, almost not real, and he took inordinate care to assure himself that his professional advice was not tainted. In different ways, but with significant similarities, they tried to control their demons. The human heart has multiple chambers. But they can't be kept separate; each affects the other.

"Taking money wasn't the crime," I said.

"But I have nothing," he said. "I gave all my money away. I tried to protect the firm. Now I need money for my family so they can live. I have to pursue this matter."

He didn't turn away from me when he finished, leaving no doubt of his sincere belief that, given the circumstances, he'd acted honorably.

"No one will treat you like a partner," I said. He saw some connection left between him and the firm, entitling him to consideration like a member of the family. His financial burden could easily be lightened by the firm. But now that he'd been sentenced, everyone saw the cord as cut, all ties severed. "If you'd been honest at the time you were promoted to partner, you wouldn't have been a partner." My voice was strong, expressing the firm's position.

"I did those deals that earned the money for the firm," he said. "I earned the money." After sentencing, he had been offered loans by at least two clients of the firm to help him while he was in prison, but had turned them down. He didn't want to be beholden to them when it came to deciding on his new career. In his mind he was seeking money from the firm to help him begin his new life. He saw this aid as the fitting way to end the relationship.

"Ilan, you hurt everyone. The damage is irreparable," I said. "That's all anyone sees or cares about."

In the firm, there had been numerous attempts at explanations. Everyone always asked the same questions. Why did Ilan do it? First Carlo, then Ilan. Why did it happen to us again? The explanations led nowhere. None had predictive value, including mine. The firm continued to hire young people, but all the care taken in assessing them was no guarantee against future breaches of trust. Moreover, in the name of prudence, it was easy to exclude good people. Would the firm now be prepared to hire the young John Hunt, an honorable man with a conscience and good heart, who had taken temporary employment in a laborer's job to buy a suit to start work and may not have been entirely forthcoming about his intentions. Could we now credit his ambition and smile, as I had ten years before, at the story of the old gent's annoying cross-examination at the time of the Character Committee interview? It was easy to lose your confidence and trust in people, all to your detriment. But as I watched Ilan, I saw him preparing to devastate my argument that the firm had been deeply hurt.

"First, the firm's business hasn't been affected. Second, there have been no lawsuits against the firm. And third, if there were, there is no possibility of recovery," he said with fierce legal logic, which was probably correct on each point. For him, there was no harm. His conclusions buoyed his sense that he should get help from the firm.

What was strange was that no one would think that he'd do anything wrong again, but they would think, because of Carlo and then him, that it could happen to the firm again. For that reason alone the firm was tarnished.

"Loss of business and lawsuits are not the measure of the harm. The firm is not the same, even if all the points were conceded," I said, not describing for him the anger that was felt in the firm. All deals were now discussed only on a need-to-know basis. The easy intimacy was gone, and my relationship with the people who worked with me was more distant. Of all the emotional wounds, betrayal tears the deepest and takes the longest to heal.

"No one will ever feel that he owes you anything," I said.

"We'll see," he said, meaning that Milton Gould would make his case.

That was the last time I saw him before he went to prison.



GEORGE KATZ MET Milton Gould over lunch. George was the most accessible of the founding partners, warm and easygoing, which was the reason Gould set the appointment with him. George was the firm's historian, and in many respects its conscience. He came to the meeting as an advocate for the firm. Gould knew all this about George, and he asked George to tell him the firm's side of the story. Gould had been intrigued by Ilan and his story, but hadn't agreed to represent him until he heard both sides. Gould, one of the country's foremost trial lawyers, was a formidable man of vast experience and at least twenty years older than George, then in his mid-fifties. Gould would make up his own mind. They fully discussed the issues, and it was a long lunch.

After the meeting Milton Gould advised Ilan not to pursue the matter, and Ilan agreed. Gould had seen the anger that had built up in the firm against Ilan. All the sensibilities in the firm had coalesced: Ilan was no longer part of the firm, and the firm wasn't responsible for him or obligated to him.

Ilan and I had one last conversation before prison. I called him the day before he left.

"I'd like to get you some books to take with you," I said. We'd talked about my making up a reading list of novels and plays and various texts that would entertain and occupy him.

"They won't let you take anything with you," he said.

"Oh," I said, surprised. Then I understood. That was the beginning of the punishment. Everything personal was taken away. The barrenness of it was appalling. In that statement, said matter-of-factly, was the loneliness of life without family or friends.

"Is there a prison library?" I asked.

"A good one," he said firmly. He'd thought through all I was thinking, and knew what he was facing. He didn't ask for a list.

"Do you know your address?" I asked.

"Not yet," he said.

"Write to me and I'll send you a book list."

"Yes," he said. It was a polite response, not meant as an affirmative, signaling the end of the conversation. I knew then that he was looking to find his new life and we would go our separate ways.