

## Fred Gucci

*Michael Parish*

“I GOT A DEAL on a Superbowl cake,” the lawyer said as Gary walked into his corner office. In the daylight the man’s hair looked thinner, Gary thought, surveying him as he filled his chair, all 250 pounds of him, wearing suspenders, a blue and white striped shirt and a red, broadly patterned geometric tie. The man’s suit jacket, with the points of a neatly folded pocket handkerchief jutting from it, hung on the back of his desk chair.

“Help yourself to a slice,” the man said. “Knife’s right there.” Gary looked down at the table and saw three quarters of a dark chocolate football with white icing laces and two small plastic helmets sitting on it, one yellow with a green and white center stripe and the other in New York Giants blue with a red and white stripe.

“Which Super Bowl was this?” Gary asked. He was there to discuss the \$50 million lawsuit a large publicly traded company had filed against him personally for issuing a market report recommending to his firm’s customers that they sell the stock. Gary had discovered production problems the company was

covering up in its reports to shareholders. They had sued his firm for another \$200 million. At the moment he was suspended from his job without pay. The production problems had been disguised by phony futures contracts, Gary had also found out. Most of the top management had been in on it, but they were throwing up a big smoke screen, with press releases and lawsuits.

“Green Bay versus Giants. Giants win 21-15. The one in your dreams that never was.” The man waved a hand again in the direction of the cake. “Eat. Eat. This bakery has a joker working in the back. Do you know, under the current NFL structure, the Giants and the Packers could never be in the Superbowl against each other? Is that stupid? That’s why I got a deal – 40% off list price. That and the fact that it’s two days after the Super Bowl and nobody bought the cake. But it’s still good cake. Sit down. Make yourself comfortable.”

“Never pay list,” said Gary, accepting the first part of this offer. “Rule number 1. Except for brain surgery and ...”

“And essential services like your lawyer’s

fees, costs and expenses. Nothing more essential than that. Especially in your case, not to rub it in." Gucci walked over and pulled out a pamphlet from the stack of papers on the conference table and put his feet up. "Would you like to hear what a 'derivative' is?" he asked. "Listen to this –

A derivative financial instrument is a contract [financial instrument] that provides the holder with the ability to participate in some or all of the price changes of a reference financial instrument(s), commodity(ies), or anything else with a price (the underlying) without requiring the holder to own or be obligated to deliver the underlying now or generally without requiring the holder to own or to be obligated to deliver the underlying in the future.

"At least that's what the accounting profession says it is," he continued. "Does that put you in the picture? Are we all squared away now? Does that give us what we need, so we can get where we're going? I'm not completely sure."

"What is that about?" Gary asked. "And why are you reading it to me? My case has nothing to do with derivatives, really. This is about fraud, fraud on the market. Derivatives is just the background, from a legal point of view. At least as I understand it." Gucci had been recommended by the in-house lawyer at Gary's firm. "Don't worry," the man had said. "He's the real thing. A little more than real, in some ways, but you'll get used to that part. And remember what Aldo Gucci said – no relation by the way, none at all. He said 'Quality is remembered long after price is forgotten.'" Gary had met Gucci in the King Cole Bar at the St. Regis hotel, explained the case over several rounds of drinks, for which he had picked up a not insubstantial tab, and Gucci had agreed to be hired.

"No sweat on this derivative thing" Gucci said. "I got this in the mail from my accountant. I just had to share it with you."

"Thanks," Gary said. "I'll remember it, and

plan to find it useful some day in the future when I have work again, I'm sure."

"No self pity. Just because you're a defendant in a multi-million dollar lawsuit where you did nothing wrong. You think you're unique? Not. Want to hear a good one? Try this. Relax. The meter is off for anecdotes. But you have to hear this. Guy owns a company, right? Leather goods. Lots of purses, wallets, keycases, stuff like that." Gucci wandered over to the cake and cut a slice. "Well, why not?" he said.

"So this guy has a chief shipping clerk who likes to step out with the ladies. Shady or otherwise, it's not clear. Fast forward. He has a need for spending money that he satisfies by cooking up a scheme with some made guys down in Philadelphia, where he throws in five or ten percent more merchandise than it shows on the shipping manifest, and they kick back half of whatever they make on the extra. Now, this company has a Christmas party every year, and the deal is that the owner and his wife stand up at the microphone in front and hand out bonus envelopes and presents to the staff. No cake for you, huh? Whatever. Last time I'm asking. And part of the deal is that you have to come up and thank the owner and his wife and make a little speech about how grateful you are to the management and what great people they are and how next year you're going to try even harder. Shit like that. Anyway – you don't mind this cigar, do you? Want one? No? Here we go, then. Fire in the hole. So there's this Christmas party, and when it comes the shipping honcho's turn, he gets up like Simon Straight and gets his envelope and his little present and does the gratitude number like everybody else. At this point the owner, Leonard, says 'Well, if that's true, Sal, then how come you've been stealing us blind since July?' You see, somebody at the other end got wise to what was going on and turned the guy in for a reward. That's no surprise, but suck on this. Before the guy can figure out what to say or do – at this point you would hardly know

whether to shit or go blind, right? At this point in walk these two NYPD detectives and they collar him and cuff him and lead him away. Between the salad and the main course. Some Christmas party, wouldn't you say?"

"Do you represent the guy?" Gary asked. At the moment his sympathies were with defendants, no matter what they might have done. Or been alleged to have done. No diplomas in this office, Gary realized, just movie posters and a Picasso repro the guy must have from his college days. Plus a number of amateur photos in plastic frames – sailing and hiking. The colors were faded, which made sense when you looked at this Gucci guy. That had been a while ago.

"No, of course not," Gucci said. "That guy's going to jail. He was stupid and careless. Unforgivably careless. No, I represent the fidelity bonding company. Leonard got nicked for about a hundred G's. But from us he gets twenty five, max."

"How come?" Gary said. "I thought you said the guy is guilty as sin."

"Not relevant. Failure to supervise. Lack of adequate controls. Plus being a prick at the company Christmas party. That has a price tag too, although of course we don't mention it in so many words. But if we ever go to trial, you can be sure the judge and the jury are going to get an earful of violin music from me on that subject. And Mr. Sal Schmuck the former shipping clerk is going to be testifying for us in his prison greens while Leonard sits there with his tie from Armani's and his suit from Barney's." He said it "Bahney's," New York style. "You would find failure to supervise and lack of adequate controls, right? How could you not?" Gary nodded. Gucci picked up a manila folder and opened it.

"Okay, good. Now would you like to hear where we are on your case?" he neatly rolled some ash off his cigar into a cardboard coffee cup on the bookcase shelf. "Short answer, we are nowhere on your case. We have no progress

– because of people's scheduling problems, supposedly as they tell me. And so on."

"My own schedule's pretty open," Gary said. "Since I got suspended from my job because of this law suit. Maybe I could take over for you."

"You wouldn't want to chance that." The lawyer frowned. "By the way, did you deliver me your firm's policy manuals and your employment contract-unsigned, don't worry, I remember, but that's not anybody's show stopper, the way the law can be made to work in this area – and all that other nonsense you were supposed to get me, so I can get started? I don't see a receipt for that in our log."

"I gave them to you. Into your hands. The first time we met," Gary said. Gucci smiled. "Oh, yeah. I've got them at home, then. Okay. Good. No sweat on that piece. Your case – to move it along is gonna take a little time, Gary. We're getting jerked around because that Diktron company you trashed in your research report is trying to cut a deal with your firm. The other defendant, as you no doubt recall. We're on hold. We're the aftercard, to say it in terms of boxing, not the main event. Appointments are hard to get confirmed."

"Now, I can play it two ways. I can spend a lot of my time and your money doing the grunt work and going through all these papers and pulling your case together. Or we can just sit tight and save all that for if we have to go to trial. We know what we want here, right? We want the suit dismissed and we want you reinstated with back pay and a fair Christmas bonus, speaking of Christmas as we just were, and leaving out what the Diktron lawsuit cost the firm, which is not your problem. That lays it out, right? Is that a fair summary? Does that cover it? Am I worth my money?"

"And reimbursement for your costs, expenses and fees, I guess," Gary responded, thinking of the retainer letter he had signed. "What's the difference between a cost and an expense, by the way?"

"A cost is your share of my overhead. An expense is my direct out of pocket for anything connected with you. Like a long distance call, for instance. As opposed to a local call. A local call is a cost."

"What's a fee, then?"

"Mine. Mine and the government's. It's yours, then it's mine. Whatever I manage to keep. It's not that simple, of course, but roughly that's the way it breaks."

"How is it breaking at the moment?" Gary found himself involuntarily reaching for his checkbook. God, this guy was good.

"You owe me another ten thousand, three hundred and ninety three fifty. That's all in. Everything, including fees through the end of last month. Thanks for asking."

"So what's our plan?" Gary asked. "Don't forget they have me on zero pay now. And bartender jobs are hard to come by." Gary calculated where the ten thousand three, no, ten four actually – that Fred was clever, to keep the last number just under four hundred – would leave his checkbook. Then he thought of a question. "What is the chance we could be done with this in a month?"

"Zero," Fred said. "The best we could do is file some motion to dismiss and we get hit by lightning and actually win. Did you see that guy, by the way, he was on tv – he can't feel cold? He was out shoveling his walk in sneakers and Bermuda shorts. Lightning struck him. Actually. About three years ago. He was lucky. All it did was take away his ability to feel the cold. His wife was standing next to him in a fur coat and gloves and earmuffs. He has no shirt or anything. It was wild. He didn't seem to mind at all." Gary tried to find that funny, but it only seemed incongruous. He thought he knew a little about how the guy felt. Numb.

"But if I file a motion," Gucci continued, "I have to have a basis. No frivolous motions. So for me to find an adequate basis, something that passes at least the laugh test, and hopefully the smell test, I have to do some research and

find out some law and become very thorough about making sure I have the facts of the case totally straight. Then I put on my thinking cap and become – this is not easy for me, as you can imagine – deeply humble before my Creator. And pray for him to fill my hand with the words. If we get that, you never know. It would take us about two months to get a decision of any kind on a motion like that anyway. On the other hand, if we file something then I'd have nothing to do on this case except hold your hand, and that would free me up to focus on this Merrill Lynch thing with their real estate people, which would be nice. Or was it CSFB or Prudential?"

"What do you need to know?" Gary said. "I would like to pursue this motion idea a little bit. At least for a little. For me, there's no downside right now. I've got nothing but time."

"Okay," Gucci said. "Let's get to work then. But before we do, let me share with you an insight."

"What's that?" Gary said, wondering if the actual work was ever going to start.

"An insight into the law. Here goes. You don't know this, but at the Bar Association of the City of New York, the premier bar association in this great country of ours, on the fourth floor outside the library, sits a sculpture, a sculpture that won a competition sponsored by that august body. It's a marble rendering of a hand holding a ball and it's called 'A Tribute to Champions.' By Charles Grossman, whoever he is. Now the good part. This sculpture could be the hand of God, holding the Earth, or something like that, or it could be something about man's mastery of the most perfect form, the sphere. But this is where lawyers come to spend their time trying to screw over other lawyers, right? So if you consider that, and you consider how the hand is holding the sphere, with the fingers tucked under, like a fist, and the thumb snaked around the side, you will realize that this is the grip for a knuckleball, the

pitch that is all about deception and confusion and throwing people off their stride. Then you understand two things. Why the sculpture won, and how little control anyone in law has over the ultimate result of a lawsuit, because how the knuckleball works depends on the turbulence of the atmosphere more than the strength or skill of the pitcher.”

Gary sat and stared at the wall. Many thoughts ran through his mind, but no words formed on his lips. He considered his bank account and his IRA, all fair game for damages

if he lost the suit. He wondered if he would ever find work on Wall Street again. He looked at his lawyer.

“Not to worry, though, Bubs,” the man said, pronouncing the nickname in a clipped, New York style. “Some guys can throw the knuckleball and some can’t. What do you say we call down to the deli for a couple of corned beef and pastrami sandwiches and some sodas and see what kind of thunderbolts we can fashion out of your case. You hired the best, you deserve the best. Here we go.” *GB*