

The Ethical Treatment of **\$**omebody Else's Money

Straight From The Horses' Mouth

June 30, 2017



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Fewer Stocks, Fewer Pickers

Reported in the Wall Street Journal (6/23/17)

There were 7,355 US stocks in November 1997, according to the Center for Research in Security Prices at the University of Chicago's Booth School of Business. Nowadays, there are fewer than 3,600.

A close look at the data helps explain why stock pickers have been underperforming, writes Wall Street Journal columnist Jason Zweig. "Fund managers have far fewer stocks to choose from if they venture outside [an] index, the very area in which the best bargains might be found. More money chasing fewer stocks could lead some fund managers to buy indiscriminately, regardless of value," he says.

According to JP Morgan, the human element is dwarfed by tech in trading. Quantitative investing based on computer formulas and direct trading by machines is leaving the traditional stock picker in the dust and now dominating the markets.

"The majority of equity investors today don't buy or sell stocks based on stock specific fundamentals," according to JPMorgan, which estimates "fundamental discretionary traders" account for only about 10% of trading volume in equities.

SEC Data Mining

The SEC recently reported that they have entered the 21st Century, using Big Data to look for unethical investment advisor practices. An Associate of the Commission said, "Let me give you a concrete example in the context of the investment adviser space. DERA staff currently ingests a large corpus of structured and unstructured data from regulatory filings of investment advisers into a Hadoop computational cluster."

WHAT??

Bankrate Study

It seems as if everyone is doing a study. Remember what they say about statistics and remember how well the pollsters did in last year's election.

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Bankrate.com's entry in the study race says Americans are saving more. The leaders are young people 18-26. They say they are the “most likely to have saved 6 months of income”. Not in my part of the world.

They go on to say that households making between \$30,000 to \$60,000 annually are “more likely to have a 6 month stash than they are to have zero savings”. I do not believe it for a minute.

How many \$30,000 a year households do you know that have \$15,000 in savings?

Why the results? Could Bankrate have “cherrypicked” the data or the sample set to show results that look good for their business? Nah, a company wouldn't do that, would they?

Cybercurrency

Last month I trashed Bitcoins and they went up, and down and up; more than Otis. 10,000 readers called me short sighted. That won't stop me.

A Bitcoin rival, Ethereum had a “Flash crash” last week. Those who still know how to calculate standard deviation would go nuts over this one.

Ether traded at \$19 in March this year. On June 13 around \$400; June 26 \$262, and today (June 29) \$313.

If you consider Cybercurrencies an investment, you should get professional help quickly (in more professions than one). It is a speculative play. Use your funny money, your Vegas stash and your Friday night poker dollars. That is, if you just have to have cyber\$. Most of us will steer a wide berth.

RETIREMENTCULTURE©

Lose your job to a robot? Maybe.

An Oxford University study, “The Future of Employment”, identified the highest risk jobs to be lost to automation are Telemarketer, Loan officer, Cashier, Paralegal and Legal assistant, Taxi and Fast food cook. Stanford University prof Jerry Kaplan wrote in *Humans Need Not Apply*: today, automation is “blind to the color of your collar. It doesn't matter whether you're a factory worker, a financial advisor or a professional flute-player: automation is coming for you.”

So, it is said that the 2020's will be a decade of redeployment. Justin Tobin, founder of the innovation consultancy DDG, says he believes: “More and more independent thinkers are realizing that when being an employee is the equivalent to putting all your money into one stock – a better strategy is to diversify your portfolio. So you're seeing a lot more people looking to diversify their career.”

One futurist said that we might have 7 or 8 jobs simultaneously.

When you factor this in with the 100 Year Life studies we've written about a few weeks ago, the concept of a multi-career life, enjoying life more while younger, rather than scrimping and saving for a retirement that isn't coming, and aging gracefully in a monetized hobby sounds pretty good to me.

I've talked in the past about my highway worker and ranch hand friends. Well, he sold his lucrative trucking business in his 30s for the flexibility of a local job and life on a ranch, so he could spend time with the family. I wish I had done that.

Just this week, I talked to Danny, a free-lance builder. Same story. The Oil fields were traded for craftsmanship and time for the kids and the horses.

Just think about having income for something you're not a slave to, and time to live—Now.

The Mystery of Clinton Portis

He played 9 seasons in the NFL. He earned \$431 Million. 3 Financial advisers,—Jeff Rubin, Jinesh Brahmabhatt and Fuad Ahmed—allegedly steered Portis toward faulty investments that resulted in millions lost for the former running back. He says he lost \$11 Million. He declared bankruptcy in 2015 and had to get a job.

\$431 Million. In 9 years. \$43 Million a year. Taxes would take at the outside, 40%. That leaves about \$26 million after tax a year. \$26 Million a year. He admitted he had a lavish lifestyle. If all he had to steal was \$11 million, that means he saved 11/260 or 4.3%. Let's put that in real terms. Say you made \$60,000 a year. Adopting Portis' lifestyle methodology you would save \$2580 a year. That's not terrible. Using Adam Hoffman's \$10 a day compounded at 3% idea, you'd have about \$120,000 in 30 years.

But, that's not the point I wanted to make. This guy spent \$230 Million in 9 years. I guess it's a matter of scale.

PureChioce Fraud

A Minnesota federal judge on Wednesday sentenced the founder and former CEO of PureChoice Inc. to 22 years in prison after he was found guilty by a federal jury on 11 of 12 counts for his role as the orchestrator of a \$25 million investment fraud scheme.

Bryan Reichel, 62, solicited investments on behalf of his indoor-air testing equipment company from 2003 until 2011, lying about its success and concealing the fact that it faced default on some debts, a jury found in November.

Sports investment Fraud

The U.S. Securities and Exchange Commission on Wednesday slapped an incarcerated former executive of a now-defunct sports investment company with a lawsuit in Florida federal court, saying she took part in a scheme to bilk mostly elderly, inexperienced investors out of millions by selling them worthless stock.

For several years Diana Lovera helped Thomas Anthony Guerriero, also incarcerated, in a telemarketing scheme that defrauded investors into believing Oxford City Football Club Inc. had a leading sports, education, media and real estate portfolio.

The Most Hated Man in America

They called Martin Shkreli "The Most Hated Man in America". That's not even close. But the strange guy is on trial for criminal charges of securities fraud, wire fraud and conspiracy for perpetrating a ponzi scheme at his pharmaceutical related investment funds. He allegedly cheated investors out of \$11 Million. You may remember that while he was CEO of Turing Pharmaceuticals he hiked the price Daraprim, a drug used by AIDS patients, by more than 5,000% from \$13.50 to \$750 a pill in 2015. Nice Guy, right?

Innocent until proven guilty, right? We'll find out, IF they can seat an impartial jury. "Questioned by the judge during sidebars, prospective jurors described Shkreli as "the face of corporate greed" and "a snake". "In this particular case," another dismissed juror said Wednesday, "the only thing I'd be impartial about is what prison he goes to."

Shkreli is free on \$5m bond. If convicted, he faces up to 20 years in prison.

\$11 million is not much nowadays in the ponzi scheme world, but for the outrageous hike in a drug AIDS patients need, the guy deserves his own circle in the Inferno.

The Case case

And speaking of Ethics, what about lawyer, Jay Sekulow who runs a couple of conservative Christian non profits, Christian Advocates Serving Evangelism (Case) and [American Center for Legal Justice](#) (ACLJ)? Now under investigation by a couple states, he allegedly pumped as much as \$60 million into the family coffers since 2000 to fund lavish lifestyle toys like planes, equestrian 4 legged grass mowers, property and 7 figure paychecks for family members. Allegedly.

Apparently Case telemarketers (soon to be replaced by robots—see above) were instructed in contracts signed by Sekulow to urge people who pleaded poverty or said they were out of work to dig deep for a "sacrificial gift". *The Guardian* says Case preys on poor and jobless Christians with dire unsubstantiated ("Fake news") warnings.

Fiduciary Forensics®

CFA Institute Instructs the SEC on Fiduciary

In a June 13 letter to Jay Clanton, Chairperson of the Securities and Exchange Commission, Paul Smith, CEO of the CFA Institute, made some recommendations of what the Institute's nearly 150,000 investment professionals think the SEC should address.

Number 1 on the list was the Fiduciary Obligations of Investment Professionals. I can't write as eloquently as Smith does, so I have to quote from the letter:

CFA Institute strongly supports a fiduciary standard for all who provide personalized investment advice to retail investors. We are acutely aware of the difficulty the Commission faces in attempting to draft a uniform standard for everyone providing such advice, as it would likely involve numerous exemptions and carve-outs for different types of clients, transactions, and situations.

We believe the Commission can effectively begin to regain control of this issue by regulating the titles that those who provide personalized investment advice can use. We, like the Commission's Investor Advisory Committee, recommend that the Commission require that anyone wishing to refer to their title and/or activities as advisory in nature (e.g. "adviser" or "advisor") adhere to the Investment Advisers Act and the fiduciary duty implied by common law interpretation of the Act. Such control of terminology would not be new to the Advisers Act, which already expressly limits use of the term "investment counsel" to those who must adhere to the Advisers Act's requirements.

At the same time, we believe commission-based sales activities serve important client needs and give investors options for how they wish to conduct their investment activities. Whether commissioned brokers provide investment ideas or execute trades, we support that they be permitted to pursue their business activities, so long as they are clear about their roles vis-à-vis their clients. Specifically, we recommend that the Commission require that they refer to their roles with the title, "salespersons." For too long, these sales staff have blurred the line between what they do – selling investment ideas to generate commission-based transactions – and

what investment advisers do – advising clients on investment strategies and tactics to achieve their financial goals.

We believe that once the issue of titles is addressed, the SEC will have a clearer idea of what kind of rules are needed to address other aspects of the standards-of-care issue. We stand ready to help make these changes, changes that we believe will have long-term benefits for investors and U.S. capital markets.

I couldn't say it better than that.

NOTE: Basically passed by the House, and presumably headed for the Senate (if they return from recess) is the FINANCIAL CHOICE ACT OF 2017. In "Subtitle B—Eliminating Excessive Government Intrusion in the Capital Markets" we find, "Sec. 841. Repeal of Department of Labor fiduciary rule and requirements prior to rulemaking relating to standards of conduct for brokers and dealers". Basically getting ignored by F. Proponents, at least we've been watching.

THE FIDUCIARY SALE

Are Advisors in danger of being phased out by technology? Price Waterhouse Coopers did a study that indicated that technology firms tech firms may become active in the investment management space with "data analytics and research capabilities that could allow them to set up shop as direct competitors to investment managers"

While the study was vague, another correspondent, Jeff Levi from a Deloitte affiliate said, "My guess is over time we are going to see technology disrupt the way investments are packaged and delivered. Can investment advice be delivered in new ways using only technology, with humans only on the periphery?"

The biggest drawback right now is the issue of fiduciary responsibility. Tech firms do not want to take that on (if they understand it at all). So the fiduciary game may be what is holding them up.

Call me old fashioned, but I do not see any AI capability to replace the Ethical Advisor standing in fiduciary shoes. (NOTE THE "CALL ME OLD FASHIONED" IS NOT AN INVITATION).



**BREAKING NEWS: NEXT WEEK, JULY 7
WE LAUNCH OUR ADVISOR ANNUAL
COMPLIANCE TRAINING ONLINE
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PARED BY LAWYERS. CHECK HERE
NEXT WEEK FOR MORE DETAILS.**