

REVIEW & OUTLOOK

Spitzer v. Grasso

All of Wall Street is looking forward to the showdown between New York Attorney General Eliot Spitzer and former New York Stock Exchange Chairman Dick Grasso as if it were a rematch of Godzilla vs. The Thing.

**New York's Attorney General finally meets his match.**

Allow us to disagree and suggest that this clash of the titanic egos may well prove to be educational.

Mr. Spitzer said yesterday he is suing Mr. Grasso, former NYSE Director Kenneth Langone and the Big Board itself over the super-size compensation package that led to Mr. Grasso's resignation last year.

One benefit here is that Mr. Spitzer may finally have met someone who has nothing to lose by fighting back.

Mr. Grasso has already been run out of the NYSE where he spent his working life, rising from errand boy to boss.

Another benefit of this battle is that it will shift responsibility away from the guy who cashed the paychecks and onto the directors who wrote them.

Well, for starters, the compensation was paid by seat holders who own the Big Board and knew exactly how handsomely they benefited from Mr. Grasso's work.

Bill Cosby Live

He's not backing down. At Stanford University Sunday, after a speech to teachers, Bill Cosby didn't mince words when he spoke of parents not doing right by their children.

This strong language about irresponsibility and bad behavior comes scarcely a week after the comedian found himself at the center of a firestorm for remarks he delivered at an NAACP dinner commemorating the 50th anniversary of *Brown v. Board of Education*.

*Lack of responsibility:* "Ladies and gentlemen, the lower economic people are not holding up their end in this deal. These people are not parenting. They are buying things for their kids—\$500 sneakers for what? And won't spend \$200 for 'Hooked on Phonics.'"

*Lack of English skills:* "I can't even talk the way these people talk: 'Why you ain't,' 'Where you is' ... And I blamed the kid until I heard the mother talk. And then I heard the father talk. ... Every-

Quid Pro Kyoto

The Kyoto treaty on global warming lurched back to life Friday after Vladimir Putin performed the Heimlich maneuver. The Russian President announced that in return for European help in getting Russia into the World Trade Organization, he looked forward to speeding his country's ratification of the Kyoto pact.

**Putin caves on Kyoto to get into the WTO.**

That's bad news because Russian ratification would be enough to activate the ill-considered treaty. The Kyoto pact will not go into effect until countries accounting for 55% of the "greenhouse gases" emitted by industrial nations ratify.

Until now, Russia has been smart, looking beyond potential short-term gains from trading emission rights to the long-term costs of the treaty. Those add up to hundreds of billions of dollars per year across the world economy, in addition to the opportunities forgone for real economic development.

Mr. Putin apparently agreed to fast-forward Kyoto in return for Europe backing off de-

The supposed financial rubes on the NYSE compensation committee included: Carl McCall, the former New York state comptroller; Herbert Allison, chairman of pension fund TIAA-CREF (with a mere \$290 billion under management); Hank Greenberg, chairman of the giant insurer AIG; and current and former heads of Bear Sterns, Merrill Lynch, Goldman Sachs, Lehman and Morgan Stanley.

We also can't help but notice that most of these directors aren't targets of Mr. Spitzer's lawsuit. Isn't that convenient. Perhaps it is a coincidence that the only director charged in the Spitzer complaint is the one who has continued to defend the board's contracts—Mr. Langone.

It's true that Mr. Langone chaired the compensation committee for several years, and he was well known as a Grasso pal. But Mr. McCall also ran the compensation committee when some of Mr. Grasso's pay was approved, yet he was spared Mr. Spitzer's legal attentions.

Mr. Spitzer's suit cites a former NYSE human resources executive who now says he provided "incomplete, inaccurate and misleading" information to the board about Mr. Grasso's pay. Any dishonesty deserves investigation, but the larger question here is board responsibility.

It also wouldn't hurt if someone forced Mr. Spitzer to show why he should be the authority on how much a stock-exchange executive should make. New York's not-for-profit law states that compensation should be "reasonable" and "commensurate with services provided."

body knows it's important to speak English except these knuckleheads. ... You can't be a doctor with that kind of crap coming out of your mouth."

*Crime:* "These are not political criminals. These are people going around stealing Coca-Cola. People getting shot over a piece of pound cake and then we run out and we are outraged, [saying] 'The cops shouldn't have shot him.' What the hell was he doing with the pound cake in his hand?"

By week's end Mr. Cosby had issued a statement pointing out that most of the news accounts dropped the context within which his remarks were delivered: a 50% high school dropout rate for inner-city African-American males that he rightly characterized as an "epidemic."

Surely it says something about Mr. Cosby's critics that they are more disturbed by his speaking out than they are about the underlying crisis he's trying to address.

mands that the Russians meet certain energy requirements as a condition for joining the WTO. That Mr. Putin would engage in such horse trading doesn't surprise us, but it must dis-

appoint his chief economic adviser, Andrei Illarionov.

For years Mr. Illarionov has made economic, scientific and environmental arguments against the treaty that environmental radicals treat as sacred text. Kyoto would stunt the growth of the Russian economy, he says.

Mr. Illarionov's free-market philosophy offers the best chance for the Russian economy. In an interview with this page last week, he said that he objects to the philosophy of "interventionalism" behind the treaty.

Mr. Putin didn't promise immediate ratification, and it's still possible that Russia might be able to land its WTO membership without moving its economy back toward the czars.

My Vindication Will Come in a Courtroom

By Richard A. Grasso

Politics and law are a bad mix. New York Attorney General Eliot Spitzer's decision to intervene in a commercial dispute between the New York Stock Exchange and me over my compensation and retirement benefits smacks of politics.

Yesterday the attorney general announced that he is bringing a lawsuit charging that I took excessive compensation from the NYSE, an institution that I loved and served for over 35 years, from my days as a \$81-a-week union stock clerk to my eight years as chairman and CEO.

Mr. Spitzer charges that the Board was somehow misled or uninformed—even though it was the Board that approved each of my contracts that set forth exactly how I would be compensated and it was the Board that approved my compensation every year.

That Committee, chaired by former State Comptroller Carl McCall, rejected my suggestion and the Board decided to offer me a new contract and permit me to withdraw the benefits I had previously earned.

I was forced from the Exchange last September by the very Board that had voted for my compensation—with eyes open to every dollar I had earned and been awarded—just weeks earlier.

Since then, I have been the subject of an unrelenting series of leaks from the new leadership at the NYSE, seeking to pressure me to concede that I had engaged in some wrongdoing.

from those in the business community who have continued to stand by me, but by the fact that I enriched the shareholders I represented, and helped strengthen the Exchange.

My record at the NYSE speaks for itself. The value of a membership seat nearly tripled during my tenure as chairman, soaring to more than \$2

**A politically motivated lawsuit, malign leaks, and even a touch of Sgt. Schultz.**

million from \$700,000; the income to seat owners leasing their seats to others likewise jumped to \$300,000 from \$100,000. Under my leadership, the NYSE significantly increased its market share. It nearly doubled the number of listed companies, and the great majority of the near-500 non-U.S. companies now on the NYSE were listed during my tenure.

Mr. Spitzer suggests that somehow Harvey Pitt, former chairman of the SEC, and I acted improperly in not taking action against research analysts. But Mr. Spitzer has a short memory,



Eliot Spitzer: 'Running for governor.'

ignoring the role Mr. Pitt and I played in helping to negotiate a settlement of action brought by Mr. Spitzer and the SEC against analysts, resulting in \$1.5 billion in fines. The attorney general would have us believe that the Board was totally unaware of the NYSE's actual financial performance over the period I served as CEO; let me suggest that it is the dozens of CEOs who set my compensation, not Mr. Spitzer, who read the Exchange's financial statements and found that under my leadership the NYSE earned over \$900 million during my eight years as chairman, and was sitting on over \$800 million in cash and other liquid assets when the Board of Directors voted in August 2003 to allow me to withdraw my retirement benefits and other compensation that I had earned and that the NYSE had awarded me based on my performance.

Reasonable people can disagree about what an executive should be paid, but the directors

who evaluated my performance were well aware of the market for executive compensation on Wall Street, because that is where many of them worked and earned their own substantial income.

The men and women who set my compensation knew exactly what they were doing. In fact, Chairman McCall briefed each of the directors in detail about my retirement and deferred compensation payments when he recommended the contract that led to the media backlash and my firing.

Throughout this ordeal, "interim" NYSE chairman John Reed never once approached me to discuss a settlement. Instead, he maligned me in the media, sent a letter last February demanding that I return more than \$120 million without even explaining how he arrived at that number, and then hid behind the attorney general rather than bring suit in the name of the very institution that awarded me the compensation in question.

For me, this dispute has never been about money. I made that clear last September, when I offered to forego over \$48 million that was owed me under the contract the NYSE had just signed, in order to continue to serve the institution that I loved and end the controversy.

Those who thought they could break me with their repeated media leaks badly underestimated my character and resolve. I look forward to addressing them in court where they can no longer hide behind Mr. Spitzer's cloak. I regret that those who continue to support me will also be burdened by this lawsuit. I can only express my admiration for their decision to put principle ahead of politics.

Mr. Grasso is former chairman and CEO of the NYSE.

America, Recuse Thyself!

By P.J. O'Rourke

John Kerry says America shouldn't cut and run. George Bush says America mustn't. But we don't have to retreat ignominiously from the war on terrorism and from our other international responsibilities and commitments; we can recuse ourselves. We can explain to the court of global public opinion that, because America possesses the largest economy, the widest network of business relationships, and the only effective military force on earth, we have too great a vested interest in world events to render fair and impartial judgment.

The benefits will be immediate. We can cut \$300 billion from our defense budget. This will be almost enough to pay for the aging baby boomers' prescription drug benefits, which can now include Levitra, Botox and medicinal cannabis.

America will enjoy cleaner air and less traffic congestion as oil goes to \$200 a barrel due to chaos in the Middle East. A U.S. withdrawal from the Middle East will cause chaos, of course. Then again, a U.S. intervention in the Middle East has caused chaos already. And, during those periods of history when the U.S. was neither intervening in nor withdrawing from the Middle East, there was ... chaos. The situation is akin to the famous complaint women have against men: failure to acknowledge that not every problem can be fixed. Sometimes the best thing is just a little sympathy. America had everyone's sympathy after the World Trade towers were attacked. We can get that sympathy back if we limit our foreign policy objectives to whining.

One thing to whine about will be the fate of Israel. Without American safeguards that nation is certain to be militarily attacked. To judge by previous Israeli wars, in 1948, 1956, 1967, 1973 and 1982, the result will be serious headaches for Israelis as the Knesset furiously debates the status of Jewish settlements outside Damascus and on the west bank of the Euphrates.

Elsewhere, however, Islamic fundamentalists will likely triumph. Is this necessarily a bad thing? Our own country was founded by people who, today, would be considered religious extremists. Perhaps a bond of fellow-feeling will grow between puritanical Muslims and heirs to American Puritanism. Maybe cultural exchanges of the old U.S.-Soviet type can build people-to-people-based peaceful coexistence such as we had during the Kissinger era of détente. Visiting America on fellowship programs, even the most fanatical members of al Qaeda will be moved by the story of the Salem witch trials and their pious outcome. And while Hester Prynne was not stoned to death, her crime may be said to have been treated with the letter, if not the spirit, of sharia law.

Other positive effects are to be expected. The United Nations, freed from superpower interfer-

ence, will assume its rightful role exercising peacemaking functions—and getting plenty of exercise at it. Scores of belligerents, freed from superpower interference, will create opportunities for U.N. peacemaking functions such as sending numerous bureaucrats, functionaries, commissions and inspection teams to keep combatants too busy with meetings and paperwork to have time to fight.

A NATO alliance that does not include the U.S. will acquire a new sense of mission and purpose, especially in Gdansk, Istanbul and maybe Hamburg, when Russia resumes its historic quest for warm-water ports.

The threat of nuclear proliferation will abate as dangerous stockpiles of atomic weapons are quickly used up. The loss of life will be regrettable. But this will be counterbalanced by the welcome disappearance of long-standing international flashpoints when the India-Pakistan border is vaporized, Tehran disappears in a mushroom cloud, and whatever is left of the Korean Peninsula becomes reunited.

China will assume its proper role in the world. A booming China can be expected to concentrate on economic issues. Look for Beijing to create a "Greater East Asia Co-ProProsperity Sphere," so to speak. And China won't have to bomb Pearl Harbor. There will be nothing there but cruise ships—all in mothballs as a result of \$200-a-barrel oil.

America's protestors against globalization will be able to relax. An inward-looking America is bound to link military and diplomatic disengagement with higher trade barriers. There will

End the Rockefeller Laws

By Barry R. McCaffrey and Mitchell S. Rosenthal

Driven in large measure by harsh drug laws, our prison population has grown from 200,000 to two million over the past 30 years. Now, the tide is turning and, by legislation or referendum, one state after another is changing these laws. But not New York, where the headline Rockefeller laws remain the nation's most draconian.

The laws enjoy little public or political support. Just about all interested parties—legislators, advocates of various persuasions, and all sectors of the criminal justice system—favor change. Most favor putting drug law offenders in treatment rather than prison. But there is widespread disagreement about how to go about this. How far should sentences be reduced? What should be done about offenders now in prison? Who (judges or prosecutors) should have the last word about where a defendant goes?

At Phoenix House, we have been treating drug-abusing offenders (in prison and out) for nearly 40 years. We were among the first to show that treatment, not incarceration, is a more effective, less expensive way to curb drug use and drug-related crime. We believe drug law reform offers a great opportunity to bring into appropriate treatment the most troubled and troublesome of New York's drug abusers. Because we fear this benefit will be lost if reform does not provide adequate opportunity, incentives and support for the treatment alternative,

we offer these recommendations to legislators now considering how best to change the laws:

- Reform should ensure the treatment of as many nonviolent offenders as possible.
- Sentences for drug offenses should be reduced, but not to the point that they no longer provide a meaningful incentive for defendants to accept long-term residential treatment.
- In-prison treatment should be mandated for offenders with a history of drug abuse who are not appropriate candidates for community-based treatment—or are unwilling to accept it.
- Although other, less restrictive treatment options may occasionally be appropriate, mandated treatment for offenders should involve no less than 12 months of residential treatment, followed by 6 months of outpatient aftercare.
- Penalties for quitting treatment or failing to comply with a treatment regimen should be imposed swiftly and automatically.
- Adequate levels of community-based treatment must be available statewide, and providing treatment to drug law offenders should create no additional costs for local government.

There is little doubt that the Rockefeller laws are ineffective. There is no question that they are unfair. To acknowledge their flaws is not to sanction drug use. Addicts do not, because of their addiction, belong in prison.

Gen. McCaffrey, former director of the White House Office of National Drug Control Policy, is a director of Phoenix House, of which Dr. Rosenthal is president and founder.