



## Warren Buffett Defends the Indefensible

BY JANE QUINN

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Dear Warren,

What were you thinking?

Your defense of Goldman Sachs, at your annual Berkshire Hathaway shareholders' meeting, boiled down to "everybody does it, so no big deal." You saw nothing special about the Abacus CDO, where Goldman failed to tell its mark -- er, its customer -- that the investment was designed to fail. It was up to the buyer to ferret out the conflict-of-interest by itself. You further said that the SEC's lawsuit, charging securities fraud, wasn't serious enough to affect the firm's reputation.

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Warren, how dumb do you think we are? I know that your shareholders worship your every word and that Wall Streeters still imagine they've done nothing wrong. But some of the rest of us think darker thoughts.

I remember when you railed against investment banks for dreaming up lousy deals in order to mine high fees. I remember your calling derivatives "financial weapons of mass destruction." You were right in both cases, so what's the game you're playing now?

OK, Goldman gave you a sweetheart deal. You've boasted that you own \$5 billion in preferreds at 10 percent, an offer crafted during the panic of 2008 for you alone. "Our preferreds are paying \$15 a second," you said, "so as we sit here, 'tick, tick, tick, tick.'" The shareholders loved it and Goldman did, too. For that premium price, it not only bought your backing, it bought your credibility, too.

I see a deeper game afoot that reminds me of the Salomon Brothers scandal in 1991. Salomon was caught cheating in the U.S. Treasury market. The violations plus an attempted cover-up angered the Treasury so much that it issued an order blocking the firm from further trades. If enforced, that action probably would have bankrupted the firm.

Warren, you owned 12 percent of Salomon. You believed -- probably correctly -- that its failure would damage the global financial system. Tapping your personal relationships with the head of the New York Federal Reserve, the chair of the Federal Reserve, and the U.S. Treasury secretary, you got that order reversed within four hours. The government settled for \$290 million in fines. The firm eventually found a buyer and your investment came up heads.

Which brings me to the legal threat against Goldman from the SEC. The firm is  talking settlement  (so

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Almost certainly, Goldman -- like Salomon -- is too entwined with the global economy to be allowed to fail. The panic that followed Lehman Brothers' collapse is all too freshly in mind, not to mention this week's Euro-scare.

The public probably wouldn't stand for another government bailout of a Wall Street firm. So, Warren, you have strong cards to play if you were to tap your top-level buddies again. Nothing in the press indicates that such a negotiation is going on. But the Salomon solution stands as a template. If you decide that you have to sweep in to save the firm (and your investment), Goldman stock would be a buy.

Another ethically challenged firm you've invested in, and that you're defending, is Moody's Corp., parent company of the organization that rates securities for safety and soundness. You told your shareholders that it's an "incredibly wonderful business" with "pricing power."

Right again, but wonderful for whom? Moody's and its competitors deceived investors by boosting the ratings of dicey mortgage securities. In return, they won business and copped big fees. Again, your excuse is that everybody did it. ("[Moody's] succumbed to the same mania that prevailed in the investment world."). A general "mania" implies no wrongdoing, so why hold anybody to account?

I might also mention that you're in Washington demanding amnesty for your \$63 billion derivatives portfolio. You don't want existing derivatives subjected to any reforms. But why should the world live with the risk that some of them might explode?

I'm willing to grant you that, on Wall Street, sellers normally try to deceive the buyers, if that's the argument that you're the most comfortable with. It's a pretty poor defense. Under our securities laws, all the risks are supposed to be disclosed.

So far, your Teflon image and flair for public relations has carried the day. It's a pity. Some defenses are simply indefensible.

Love, Jane

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