

**STATEMENT OF CARL FAZIO  
BEFORE  
THE HOUSE FINANCIAL  
SERVICES OVERSIGHT AND  
INVESTIGATION SUBCOMMITTEE**

**MAY 23, 2002**

**Chairman KELLY, Members of the House Financial Services Oversight and Investigation Subcommittee:**

Thank you for inviting me to be with you today. I will share with you my family's story of betrayal by four of America's great institutions - Lehman Brothers, Cowen & Company, S. G. Cowen and Hambrecht & Quist. Caution shown by today's investors not only reflects the lack of confidence the public has in corporate accounting; it demonstrates that the public also understands that major investment banking firms only say the right thing, they do not do it, and more importantly, they apparently turn a blind eye when investors are hurt.

I am Carl Fazio. I came to this country at the age of three. Through great effort and energy, my family was able to build one fruit stand into Fisher-Fazio's, a major chain of supermarkets which ultimately became a New York Stock Exchange company. At the time of its sale, I was its chairman and we employed approximately 20,000 people. Today, as I stand before you, although I earned and invested a handsome amount of money, I have few liquid assets. I am unable, at the age of 85, to pay my bills as they become due and am forced to sell my home, all because of the greed of Lehman Brothers, Cowen & Company, S. G. Cowen and possibly, Hambrecht & Quist. While focusing on generating fees, they failed to police their own brokers and employees. We have only recently learned that the New York Stock Exchange, in a disciplinary proceeding against Cowen & Company dealing with 1994 and 1995, criticized it for having compliance people subordinate to branch office managers. Even though the Stock Exchange found this deficiency, it was never corrected. In Cleveland, Robert Semanek, the firm's compliance person, reported to Frank Gruttadauria. This is wrong. Neither Cowen & Company, S. G. Cowen nor Lehman Brothers changed their procedures. That's a key reason why Frank Gruttadauria could generate fraudulent statements on his personal computer which he had in his office. He had the computer even though, according to some newspaper reports, it was against company policy. My assets have been stolen from me, not just by Frank Gruttadauria, but by the collective efforts of the brokerage firms that lent him their credibility and resources and turned their backs on protecting me.

After the sale of my company, at the request of my first wife, through her close friend, I entrusted some of my funds to Frank Gruttadauria and his firm. Over the years he became as close to me as one of my own sons. I viewed him as a member of my family and proudly watched him receive accolades in the investment community and rise up the ladder becoming a senior director of S. G. Cowen and the Branch Office Manager for Lehman Brothers. His positions in the companies gave me confidence. Little did I know that at some time, from the little records I have been able to get since Frank Gruttadauria admitted his frauds and ran away, maybe as early as the 1980s, he took my money and misappropriated it in order to grow his commission income, all the while sending me false statements which reflected the trades I sought in the market. He did this while encouraging me to deposit more and more money. Ultimately, all of my liquid assets were put under the control of Frank Gruttadauria who stole them.

I believe I am a very knowledgeable investor. I told Mr. Gruttadauria what I wanted to buy and what I wanted to sell. I made my own trades - or so I thought. I was in constant contact with him and with his office. I reviewed what I believed to be confirmations as well as my statements. Little did I know that I was dealing with smoke and mirrors. The correct statements were kept from me. What I received were fictional statements tailored to the investments that I directed. I did not have a clue that Frank Gruttadauria took control of my account and traded the hell out of it! What I did know, and what I know today, is that my phony statements correctly reflect the trades that should have been made on my behalf. What Mr. Gruttadauria did, and I am still learning as the brokerage firms begrudgingly turn over a limited amount of information, was take my funds and generate mind numbing amounts of commission for the firm while losing money in the market hand over fist. For example, in statements I recently received from S. G. Cowen's lawyers, I learned that in 1990 alone in my real account, the one I never saw, I paid commissions equal to more than 50% of my average equity and that my account turned over more than 15 times. That trading caused great losses. These commissions, turnovers and losses should have set off alarms at every compliance level, but all I heard from them was the sound of silence.

Brokerage firms are required to control their brokers. They have compliance procedures which must have been totally ignored when it came to this star broker. When accounts were losing money, someone other than the broker is supposed to call you. Someone other than your broker is supposed to talk to you about your investment objectives and the losses you are suffering and advise you as to the risks. That is one method brokerage firms have to root out trading contrary to the investors' wishes. In all the years I had accounts at Hambrecht & Quist, Cowen, S. G. Cowen and Lehman, not one person other than Mr. Gruttadauria and his staff ever talked to me about my accounts. Where were the policemen? Where was compliance? Where were the people within the companies who were supposed to protect me? Obviously, as Mr. Gruttadauria stated in his letter to the FBI, "I can hardly believe that I could have done this without detection for so long, the various firms' greed and lack of attention at the senior level contributed greatly to that." Apparently, the economic incentive of the leadership at the various brokerage firms lead them to turn a blind eye to the reckless conduct.

When I was first told the following I could not believe it was true. In Cowen's response to the New York Stock Exchange disciplinary proceeding, Cowen's lawyer, as

part of a memorandum stated that, "Mr. Gruttadauria manages an exemplary branch." How could they say that? All they had to do was glance at the accounts or look at all of the mailings to the post office boxes in his home town and this massive fraud would have come unraveled. They clearly didn't bother to investigate and I would ask you to determine why.

Now their greed has devastated me. And if the brokerage firms' actions are not bad enough, S. G. Cowen, a brokerage firm I sued, is now attempting to manipulate the court system by removing my claim from the court to arbitration. As they said in their Motion, and I quote, "Plaintiffs must pursue their claims in arbitration before a Panel of an appropriate self-regulatory organization." I believe they want it there because arbitration, as I have been advised, is a brokerage industry drafted procedure. Apparently, they believe they will obtain some strategic advantage from being there or they wouldn't seek to take the case from the federal judge hearing it. Even though the acts were fraudulent and concealed from me, the self-regulatory organization says I can only go back six years. Frank Gruttadauria said in his note that he has been doing this for 15 years. In other words, by not doing their job for more than fifteen years, these brokers may benefit by their own rules. Obviously, S. G. Cowen does not care about what happened to me. They want to get into arbitration because, I believe, they feel that they will be better able to deprive me of what I am truly entitled to.

I am 85 years old. I need this money to live on now. On January 28, 2002, I met with Lehman Brothers and told them of my urgent need for money. Lehman Brothers and S. G. Cowen are two of the wealthiest investment firms in the world, yet they have not offered one dime to compensate us for our losses or help us with my current needs. I can no longer afford my home in Aurora, Ohio. Is it fair that I have to sell my home? Is it fair I have to liquidate my assets just to pay my bills? Is it fair that my life has come to this? I don't believe you would think it is.

I am not alone. There are many people who continue to suffer at the hands of S. G. Cowen and Lehman Brothers. Many of us are no longer young. I urge you to hold these firms accountable now. Please don't wait until we die to protect us.

I would like to close by reading you a portion of Lehman Brothers mission statement. I quote "We are One Firm, defined by our unwavering commitment to our clients...." End of quote. In my situation they not only waved, they punted and now they just don't care.

Thank you for your time.