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Imparting Some Shame to Those Who Trade in Greed

By [CLYDE HABERMAN](#)

[Mark Twain](#), who came up with pretty much every good line not ascribed to [Oscar Wilde](#) or [Yogi Berra](#), said of human nature that “man is the only animal that blushes.”

“Or needs to,” he added.

New York is not quite living up to the Twain dictum. We’ve had a string of prominent people behaving in ways that many others consider shameful. Though they ought to be blushing, they show no sign of doing so. A question, then, is how to make them feel a sense of shame.

There is no shortage of examples. Feel free to create your own list, even tossing in a few journalists if you feel like it.

What sets us down this path is the greed that some on Wall Street continue to display even as their world crumbles around them. A leading character in this regard is [John A. Thain](#). He has just been bounced as the chief executive of [Merrill Lynch](#), now part of Bank of America, which has received \$45 billion in taxpayer bailout money.

While Merrill was losing \$15.3 billion merely in the last quarter of 2008, Mr. Thain scurried around paying huge bonuses to executives. At one point, [according to news reports](#), he suggested that he himself be paid \$30 million or more as a bonus for having done such a splendid job. (In the end, he got no bonus at all, poor devil.)

For those who have trouble thinking in terms of billions, the topper was the \$1.2 million that [Mr. Thain is said to have spent](#) to redecorate his office — purchases like an \$87,784 area rug, a \$68,179 19th-century credenza, a \$35,115 commode and an \$18,468 George IV chair. The rug alone cost the equivalent of nearly two years’ pay for the average worker in [New York State](#).

If anyone should blush, you’d think it would be Mr. Thain. Or perhaps [Richard S. Fuld Jr.](#), who presided over the bankruptcy of Lehman Brothers, then went around blaming everyone else for what went wrong.

Now it turns out that [Mr. Fuld has sold his \\$13 million mansion](#) in Florida to his wife, Kathleen, for — hold onto your hat — \$10. The reason for this bit of legerdemain is not clear.

But if you don't sense some sort of dodge, you have a saint's faith in the nobility of mankind. Twain would have been very disappointed in you.

Of course, at the upper reaches of the shameless we have [Bernard L. Madoff](#), no further identification required and no blushing detected.

Some New Yorkers would gladly add the Yankees to the list, given that they spent nearly half a billion dollars to hire three ballplayers, then rattled the cup for more city-approved tax-exempt financing for their new stadium. Quite a few New Yorkers say that Gov. [David A. Paterson](#) also should feel shame for the way he treated [Caroline Kennedy](#) as her bid for a Senate seat came unglued. Granted, Ms. Kennedy seems to have inherited few of her family's political genes. But once she was out of the picture, aides to the governor gratuitously slimed her, kicking her down the stairs with the grace of mob hit men.

Is there a way for the Thains and Fuld's of the world to be held up to shame, if only as a caution to others? How about something like billboards bearing their pictures and brief descriptions of their actions?

"In a society where there's lots of free speech, it's certainly permissible for private entities, as opposed to public ones, to try and say: 'Look, this person has wronged us grievously,'" said Dan Markel, a law professor at [Florida State University](#). "That's part of the marketplace of free speech, as long as the statements are not defamatory."

[Professor Markel has written extensively](#) about nontraditional "shaming punishments" — forcing a thief, for example, to walk around with a sign announcing his offense. Sentences of that sort have been meted out by judges seeking creative (critics say abusive) ways to get wrongdoers to shape up. Generally speaking, the professor disapproves, believing that such tactics tend to humiliate more than rehabilitate, encouraging "a kind of hot, emotional vigilante culture."

Even something like a privately financed billboard runs that risk, he said. After all, as reviled as Mr. Madoff may be, he has yet to be found guilty of a crime.

A different take was offered by Steve Calandrillo, a law professor at the [University of Washington](#) who has debated Professor Markel on this issue. He agrees that the goal should not be humiliation. But he sees a potential for altered behavior.

"Folks like John Thain are perfect candidates for public shaming on billboards and in the press," Professor Calandrillo said. "Their good name is what allows them to succeed in business. Once that is stripped, they have little left." Others in business, he added, may then think twice about their own actions.

Neither professor would likely approve of this, but given what has happened on Wall Street, a lot of people would find justice in stocks making a comeback. Not the kinds that you buy and sell. We're talking about the stocks whose malefactors used to be placed
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