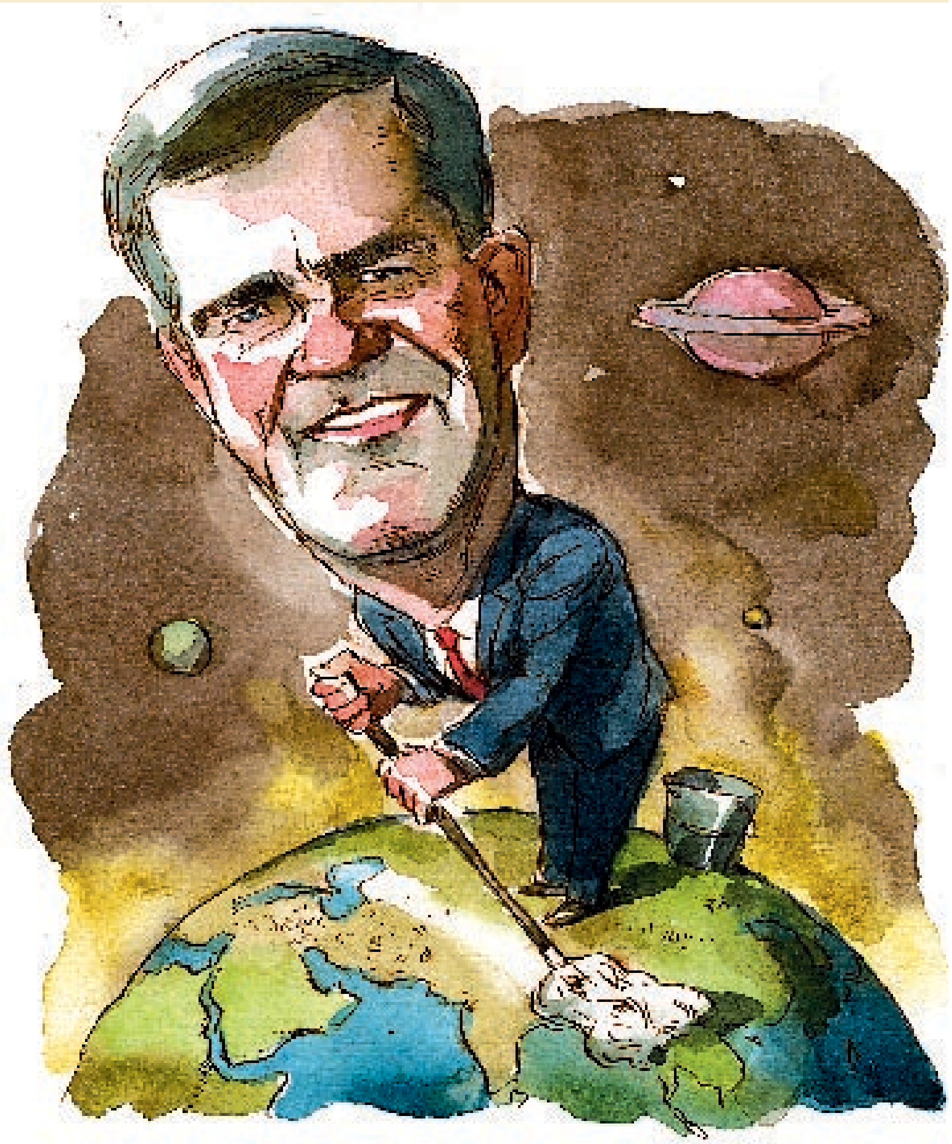

DARREN THOMPSON

The Cleaner

Business threatened by a libelous story? Name unfairly placed on a terrorist watch list? Mark MacDougall of Akin Gump will make the problem go away.

By Seth Hettena

A FEW WEEKS AGO, as Mark MacDougall was sitting at his desk in a cluttered office near DuPont Circle in Washington, D.C., an e-mail from an unfamiliar address popped up on his computer. It was a letter from a popular online Russian language newspaper that had published vicious stories about one of MacDougall's clients, an Eastern European business executive. For more than eight months, the publication had brushed off MacDougall's demands for a retraction. When he filed a libel suit in London, no reaction. But now, after winning a six-figure default judgment and starting to enforce the judgment, he finally got a response.

In the e-mail, the newspaper now agreed that its stories were false. It offered a published retraction, an apology, and a contribution to a charity of the client's choosing. MacDougall reached for his telephone. It was late in Moscow, but he knew the client wouldn't mind the call.

MacDougall of Akin Gump Strauss Hauer & Feld runs what is arguably the world's best private fact-checking department, one that would put *The New Yorker* magazine's legendary operation to shame. While his fellow white-collar defense lawyers in Washington, D.C., schmooze reporters over lunch, MacDougall's team is headed to an African grave to prove a case of mistaken identity or tracking a former KGB official to his dacha to determine that a document with his name on it was a forgery.

MacDougall works closely with investigative giant Kroll Inc. For each case, Kroll puts together a squad of investigators that fans out around the world. Sometimes MacDougall travels and sometimes he does not, but the squad always includes investigators who know the locations and languages likely to be important. Kroll does most of the digging; then, armed with that information, MacDougall takes whatever action is necessary to stop a lie from spreading.

MacDougall calls it "reputational recovery." It can cost up to $1 million per engagement, but failing to answer a false allegation linking someone to the mob, drugs, or terrorism can ruin more than his wealthy clients' reputation. It can scare off financial institutions and businesses, often just when MacDougall's clients (whom he declined to identify) need them most.

"Our job is to kill the *false* story. Not the *bad* story, which is what a PR guy does," says MacDougall, a no-nonsense man with a trace of a Boston accent. "When they start retracting, the medicine is in the system, and the disease starts to go away very quickly."

MacDougall's reputation recovery practice can be traced back to a 1999 *USA Today* story by reporter Jack Kelley, who was later exposed for faking stories. Kelley linked a MacDougall client to Osama bin Laden's terrorist network, and the allegations kept popping up elsewhere for years. The problems didn't go away until MacDougall hired Kroll to investigate the client. Armed with an exhaustive report, MacDougall got the newspaper to correct the record in 2004.

"Reputation recovery" isn't cheap, but A FALSE ALLEGATION LINKING SOMEONE TO THE MOB, DRUGS, OR TERRORISM CAN SCARE OFF Western financial institutions and businesses.

Most of MacDougall's work involves overseas publications whose reports have filtered back into Western news outlets. "You don't find the kind of way-out charges being leveled in the United States," he says. "When we've had problems with U.S. publications, we wrap them up very quickly." MacDougall has obtained corrections or retractions from *The Atlantic Monthly, The Times* of London and *USA Today.* Other stories have been stopped before they made it into print. "We know of stories that were going to come out where he's at least made them pause and do additional work," says John Oswald, a former Lord, Day & Lord partner now with Capital Trust Group, an investment bank. He has referred several clients to MacDougall.

Much of MacDougall's work involves new money in Eastern Europe. In 2003, for example, a report in the highly regarded *Jane's Intelligence Digest* linked client Eural Trans Gas to Simeon Mogilevich, an alleged crime boss on the Federal Bureau of Investigation's most wanted list. The evidence for the mob link was a letter written to Interpol in 1998 by a former Russian Interior Ministry official. The client insisted that the letter was a forgery. MacDougall sent Kroll to find the letter's author, a former KGB official named Major General A.P. Mordovetz, who had since retired and knew how to disappear. After a few weeks, investigators located him at his dacha in the Russian countryside. Mordovetz swore that the document was a forgery, and *Jane's* published a retraction.

Another Eastern Europe adventure involved Rinat Akhmetov, a coal-and-steel tycoon, soccer team owner, and member of the Ukrainian parliament who has had problems with President Victor Yuschenko's government. In 2005 a Ukrainian prosecutor linked Akhmetov to a 17-year-old shooting. Kroll investigators found the victim; MacDougall questioned him and obtained a declaration absolving Akhmetov.

The Middle East is another

AN OCCUPATIONAL HAZARD

AG's auction rate win is loss for plaintiffs lawyers.

IN MID-FEBRUARY, NORman Siegel's phone at Kansas City, Missouri–based Stueve Siegel Hanson wouldn't stop ringing. On the line were desperate people who had invested in auction-rate securities (ARS). Some had seen the firm's ad on Google. Most told the same story: They had asked their brokers to buy safe investments for their cash accounts. ARS was supposed to fill the bill.

But unbeknownst to the investors, the banks who issued ARS no longer wanted to buy the stuff. Without buyers, some $330 billion worth of it became untradable after February 13.

After a few such calls, Siegel got nervous. He dug up his own statement—and learned that he had $25,000 in ARS. "My investment had luckily cleared before February," he says, "but others I knew were not so lucky."

Months later, ARS buyers got some relief when government officials—most prominently, New York attorney general Andrew Cuomo—orchestrated deals for the banks to buy back ARS. The deals were no relief for Siegel, however, who saw his cases largely eviscerated.

But back in February, Siegel thought he was onto something big. He told five of his 14 lawyers to drop everything and start digging into ARS full-time. They teamed with San Francisco's Girard Gibbs and New York's Seeger Weiss.

Siegel's firm alone spent thousands of hours developing their case, combing through marketing materials, the regulatory history, and analyses by ARS experts. Siegel hired damages experts to gauge losses in a market that bore no resemblance to a typical stock-drop case.

In March the three firms

DOG DAYS OF SUMMER

In August, instead of brushing sand out of their kids' bathing suits, lawyers representing banks that had sold auction-rate securities (ARS) spent some of their time defending clients in class actions alleging fraud and misrepresentation. Their colleagues spent the month cutting deals with government officials, including the New York attorney general, over the banks' role in the market havoc. The principal feature of the deals was an agreement by the banks to buy back ARS at par value. Below is a list of some of the major banks involved, the lawyers representing them in the class actions, and the amount they've agreed to pay to settle the regulatory actions.

	bank	lawyers	gov't settlement value
1	UBS	William Sullivan and James Wareham; Paul, Hastings	$22B buyback $150M in penalties
2	Wachovia Corp.	Brad Karp and Claudia Hammerman; Paul, Weiss	$9B buyback $50M in penalties
3	Merrill Lynch	Jay Kasner and Scott Musoff; Skadden, Arps	$8.5B buyback $125M in penalties
4	Citigroup	Brad Karp and Charles Davidow; Paul, Weiss	$7.5B buyback $100M in penalties
5	Bank of America	Robert Stern, Jonathan Rosenberg and Bradley Butwin; O'Melveny	$4.8B buyback
6	Morgan Stanley	Gregory Markel; Cadwalader	$4.5B buyback $35M in penalties

Sources: New York attorney general's office, Massachusetts secretary of state's office, SEC steady source of work, much of it from clients who are mistakenly put on terrorist watch lists. Besides travel restrictions, being put on a terrorist list means that banks don't make loans, and transactions aren't processed. One client was involved in a multibillion-dollar joint venture with a partner who suddenly got cold feet when the client appeared on a terrorist list; MacDougall cleared him.

A similar fate befell Mohammed Hussein Al-Amoudi, a Saudi oil magnate whom Forbes ranks as the ninety-seventh-richest man in the world. Al-Amoudi was linked to Osama bin Laden by French author Jean-Charles Brisard. MacDougall helped secure an admission in a London libel lawsuit from Brisard that the claim was false.

MacDougall is expensive, but John Oswald, who has extensive contacts in the Middle East, says the value of MacDougall's work far exceeds the cost. "These are very successful business folks. If their reputation is injured, it's not a question of some mud being thrown at them," says Oswald.

MacDougall, 51, is the son of a union carpenter and a nurse. He was an Eagle Scout who grew up in Woburn, Massachusetts, just outside Boston. He attended The George Washington University Law School at night and worked during the day as a commercial banker. He joined Akin Gump in 1986 and made partner in 1994 following a stint as a federal prosecutor. Besides his reputation work, he has represented indigent inmates on death row. His pro bono defense of Bobby Lee Holmes, convicted of raping and murdering an 86-year-old woman, lasted eight years, culminating in a 2006 U.S. Supreme Court decision vacating the sentence.

Current cases include a suit against Alcoa Corp. on behalf of a Bahraini aluminum firm, accusing the U.S. metals giant of a bribing a senior official in Bahrain. The lawsuit is on hold pending a criminal inquiry by the U.S. Department of Justice. And in November, he is scheduled to defend former CIA executive director Kyle "Dusty" Foggo, who will go to trial on federal charges of fraud, conspiracy, and money laundering.

Reputation recovery won't work for everyone, and MacDougall says he has turned work away from clients who merely don't like the way they've been portrayed in the press. "We don't do unfair," he says. "We do false." ■

filed the first of 13 class actions on behalf of thousands of people who collectively owned tens of billions of dollars worth of ARS. The suits alleged that the banks had fraudulently marketed the securities as safe, when in fact they depended on the banks to maintain market liquidity.

Then, in mid-August, Siegel watched as the bottom dropped out of his carefully articulated claims. Day after day over the next three weeks, Cuomo and Massachusetts secretary of state William Galvin announced that the banks—the same ones that Siegel was suing—had agreed to buy back $65 billion in ARS.

Those buybacks eased the damage suffered by the ARS investors. They also largely destroyed Siegel's cases.

ARS is an extreme example of a fairly common phenomenon: a securities tort that gives rise to both private and government actions. For instance, in 1996, fraudulent sales practices by Paine Webber Inc. resulted in Securities and Exchange Commission, state, and private actions; so did the mutual fund scandal of 2003 over illegal market timing.

But veteran litigators could not point to a similar case where the government had so thoroughly nullified the private case. Stanley Grossman, name partner at Pomerantz Haudek Block Grossman & Gross, recalled that regulators collected $1.6 billion for customers harmed by mutual fund market timing. But there was still plenty of room for his firm's private actions, he says.

If the cases are mortally weakened, is there any way Siegel et al. can recoup their investment? Probably not, says Richard Drubel of Boies Schiller. If plaintiffs lawyers can show that they created value for the class and that regulators merely applied their theories, they may get some money. But given that Galvin served his first subpoena just 11 days after Siegel et al. filed the first claim, the plaintiffs lawyers' losses "just might be an occupational hazard," says Drubel.

Siegel is not one to easily accept the setback. Some 75 percent of the $330 billion market was untouched by the government's recoveries, he says, adding that there are still plenty of damaged investors out there. In September he and his crew filed the first of several planned amended complaints. He's trying to push the rock up the hill one more time—and hoping that Cuomo doesn't roll it back down on him. —Julie Triedman

FREE AGENTS

members of President George Bush's legal team are no doubt scanning the classified ads these days. Trying to figure out where they will land, and how much they'll get paid, is sheer speculation. Let's get busy:

MICHAEL MUKASEY
Attorney General

current salary: $186,600
possibilities: Most observers expect Mukasey to head back to Patterson Belknap Webb & Tyler, where disclosure forms say he made more than $1 million a year before joining the Bush administration. Recruiters say Mukasey could easily nab $2–3 million at another firm.
best guess: Previous holders of the office are doing well by staying out of private practice. William Barr, AG for Bush Sr., took home $2.7 million and received $7.5 million in equity in 2007 as general counsel at Verizon Communications, Inc. John Ashcroft has made millions of dollars at Ashcroft Group Consulting Services.

CHRISTOPHER COX
SEC Chairman

current salary: $158,500
possibilities: Cox was at Latham & Watkins before politics, where profits per partner today are $2.3 million. Recruiters say he could easily pull in as much as $5 million just to act as a firm mascot.
best guess: He'd be better off following in the footsteps of former Securities and Exchange Commission chief Arthur Levitt, Jr., now at Carlyle Group, and join a hedge fund or investment bank, where the pockets are deeper and executives are desperate for a "Mr. Clean."

MICHAEL GARCIA
U.S. Attorney for Manhattan

current salary: $149,000
possibilities: Garcia was an associate at Cahill Gordon & Reindel, and his predecessor, David Kelley, landed there in 2005. Last year, Cahill Gordon had profits per partner of $2.6 million.
best guess: It's doubtful that Cahill would hire a second U.S. attorney from the same office. Recruiters say another firm would pay $1–3 million.

—Nate Raymond

BRENDAN McDERMID/LANDOV (GARCIA)