MILLIONS & BILLIONS

THE INCREDIBLY TRUE STORY OF THE WORST CON MAN IN AMERICA

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"Desperation Breeds Creativity"

—Andres "Andy" Esquivel

"Dude, that's the stupidest thing I've ever seen in my life!"

—Daryl Acumen, in reply

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PROLOGUE

The People Waiting in the Hallway

This is a true story. It's worth saying that up front, because at several points you'll want to stop and check.

The money was real. So were the people who handed it over: a personal trainer, a gym owner, a sales manager at another gym, a teenager who was about to leave on a church mission, and a mother who trusted her son's best friend. Most of the rest wasn't real. There was no billion-dollar offer from Google. Oprah never booked anyone. Donald Trump bought nothing. There was no patent anyone could find. The Utah Division of Motor Vehicles never agreed to hand its license-plate database to a man who ran a sushi restaurant in Bountiful. The energy drink existed as a single aluminum water bottle with a sticker on it, which its inventor kept in a protective case. The car cover was bubble wrap and orange rope, tied around a child's toy Mustang. The private investigator, the bus driver, the co-owner who wrote the angry emails, the "confession" posted under the documentary filmmaker's name, and a homeless woman grateful for "Karma Credits" were all, according to the people who studied them most closely, the same guy.

The guy was Andres "Andy" Esquivel. On the afternoon of March 21, 2012, he was in a courtroom in Farmington, Utah, while the State of Utah explained to a judge, slowly and with exhibits, that he had committed securities fraud.

His supporters weren't in the room. They were out in the hallway.

At the start of the hearing, the lawyers had invoked what's called the exclusionary rule, an ordinary request that keeps witnesses from hearing each other's testimony. Judge Michael G. Allphin granted it. Anyone who might testify later had to wait outside, and Andy had spent months telling everyone that a lot of people were going to testify for him. He'd announced on his website that the true "owners of Xtagged" would "finally get to tell our side." Back in January he'd named them: John Steer, Jake House, Allen Brady, Shar Jenkins, Steve Klemark, "& more." In February, before a different hearing in a different courthouse, he'd promised in all capital letters, "WE ALL WILL PROVE EVERYTHING."

So the believers sat in the hallway of the Second District Court, and inside, the case against their leader went in one witness at a time.

Kyle Cluff testified first. He was a senior at Weber State studying athletic therapy, and four years earlier he'd been a personal trainer at an Anytime Fitness in Bountiful. He described a man who came in to look at a membership and stayed to talk about his internet company. The company would keep pedophiles and rapists away from children. The government had given it two million dollars in startup money. Its founder had already been on *Maury*, where he signed autographs until his lawyer made him stop. In six months he'd be on Oprah. The stock was a dollar a share now, and once it went public it would be thirty or forty dollars. Before long it would pass Google.

The gym's owner, Chris Engelbrecht, testified next. He remembered a lanyard. It hung around Andy's neck with "some digits on it," and the digits started the conversation. Andy, he said, had told him there was no risk. The defense lawyer asked him to confirm that Andy had affirmatively said there was no risk.

"Correct," Engelbrecht said. "He believed in karma."

Ryion Butcher testified third. In April 2009 he'd been the sales manager at a gym in Clearfield. Andy told him there was half a percent of the company left, the very last half percent, and that he'd better act fast because investors were lined up for it. Andy said the company was worth between five hundred million and a billion dollars. He said he'd turned down Hugh Hefner. He sold Butcher, in two installments, one percent for five thousand dollars. On cross-examination the defense lawyer had him confirm that Andy valued the company at up to a billion dollars and had sold him one percent for five thousand, then asked whether he'd done any math. (One percent of a billion dollars is ten million dollars.)

"I know," Butcher said. "I feel really stupid. Yes."

Then the state's investigator took the stand and explained what he'd found. Xtagged had never been registered as a business in Utah. Andy had never been licensed to sell securities. A search of the U.S. Patent and Trademark Office turned up nothing under the name. The Utah DMV had sent a letter saying it had never had any dealings with Xtagged or with Andy Esquivel, and that it would never let a private company get at people's driver-license information. The last witness was the Division of Securities' acting director of enforcement. He walked the judge through the Supreme Court's test for deciding whether a promissory note is a security. In his opinion, Andy's notes were.

By the time the expert finished, it was after five. Andy's attorney argued that the most serious count should be reduced. To get Kyle Cluff's investment to the ten-thousand-dollar line for a second-degree felony, the attorney said, the state was counting a two-thousand-dollar credit Andy had given Cluff for some diet plans, plus another two thousand for the title to a 1998 Chevy Cavalier with a broken engine. It was a fair point: a ten-year-old Chevy that doesn't run isn't worth two thousand dollars. But remember why the car was worth two thousand dollars on paper: Andy had said so, while he was busy collecting the title.

The judge found probable cause on all three counts: one second-degree felony and two third-degree felonies, each for securities fraud. Andy was arraigned on the spot and pleaded not guilty. The judge set a pretrial conference for April, thanked his clerk, and adjourned.

Then Andy Esquivel walked out into the hallway, where his people were waiting. None of them had heard a word of it.

The man who kept the blog that preserved most of this story later posted video of what happened next. Andy explained the hearing to his followers, and the blogger described those followers as people "who had no idea what had just happened in the courtroom." It's a good scene, and it might be the key to the whole thing. For most of a decade, the story of Xtagged was Andy Esquivel standing in a hallway, telling people what had just happened behind a door they couldn't see through.

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This book reconstructs what happened behind that door, and behind a lot of others. It draws on the court records, sworn testimony, emails, voicemails, YouTube videos, probation reports, and jailhouse letters collected over nine years on a website called xtagged.co. The site was built for a single purpose: to keep a public, permanent record of everything Andy Esquivel said, did, filed, and promised. It succeeded in ways its creator couldn't have imagined. That's mainly because its best source was Andy himself.

Andy recorded everything. He recorded his lawyers, his lawyers' investigator, and his own phone calls. He recorded video in his mother's living room, in his apartment, in parking lots, and in the hallway outside court. He sent emails to dozens of people at once, including reporters, his prosecutor, and the attorney for the man he was suing (or said he was suing, or would sue Monday). He wrote under other people's names, and sometimes under names that belonged to nobody. He posted more than a hundred videos online. He put the evidence for his innocence on websites

that also sold his products. Then he forwarded all of it to the people building the case against him.

His emails ended up as exhibits in court motions. One of his lawyers quit over the recordings. His probation officer read his emails, and late in the case a prosecutor read one of his Facebook posts aloud to the judge.

None of this means the story is a joke. Three of the victims got their money back in 2019, eleven years after the first check. The rest mostly didn't. There were also families: Andy's, Allen Brady's, and the family of the man who ran the blog, whose own mother spent a stretch of 2010 serving as chief executive of Andy's companies. Each of those families had a kitchen table where, at some point, somebody said, "But what if he's telling the truth?"

That last family is the one this book keeps coming back to. Over the years Andy and his friends called the man who ran the blog a lot of things: a bully, a hacker, a jealous rival, a man with too much time on his hands. Mostly he was a son. His mother had fallen for a con man once before. He'd watched it happen again, and he'd worked out that there was only one way to get her back. He would have to prove, in public and then in court, that the man was a fraud. This is, among other things, the story of how he did it.

Rebecca Dunn, his mother, later gave the kitchen-table question a name. She called it the one percent rule. People caught up with a man like Andy, she wrote, hang on to "a one percent probability that the scam artist was telling the truth." The price of one percent, as it happened, was always negotiable. It started at fifty thousand dollars.

It could go all the way down to a broken Cavalier.

PART ONE

The Pitch

CHAPTER ONE

The Lanyard

The Anytime Fitness in Bountiful, Utah, north of Salt Lake City, was a franchise gym, the 24-hour key-fob kind. In February 2008 Kyle Cluff worked there as a personal trainer and manager. He was young, a future Weber State senior who would later describe himself, under oath and without irony, as "a trustworthy person." He'd go on to work at a hospital. He didn't go to nightclubs. He was exactly the person a gym puts in front of a new member to sell a training package.

So when a new prospect came in to look at a membership and returned for a second visit, Kyle was sent in to close the sale.

The prospect was in the owner's office. The owner was Chris Engelbrecht, who'd bought the franchise and ran the place. The visitor had a lanyard around his neck. It wasn't a gym lanyard or a convention badge. It carried, Engelbrecht recalled years later, "some digits on it," and "the conversation took a turn for that."

The man with the lanyard was Andy Esquivel. He was thirty-seven, and in his videos he talks the way he writes emails: fast, run-on, all exclamation points, like somebody who'd had the same conversation a hundred times and enjoyed it more each time. The digits were almost certainly a license plate number. In Andy's world a license plate was more than a license plate. It was a verified identity, a safety net, a social network, and a fortune.

When Kyle walked into the office, Andy was already explaining his internet company to the owner. "He was talking about the government giving him money for startup costs," Kyle testified four years later, "about his soon-to-be appearance on the Oprah Winfrey show, how MySpace tried to buy it for 5 million but he declined."

That was the first thing Kyle Cluff ever heard Andy Esquivel say. Every part of it was false, and every part would be repeated, enlarged, renegotiated, and eventually entered into the record of the Second District Court of the State of Utah.

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Here's how Xtagged was supposed to work, as Kyle and Chris understood it.

It was 2008, and MySpace was where America's teenagers met strangers. Social networks were full of fake profiles, and newscasters were running segments on online predators. Andy's idea was to tie a person's online identity to something you couldn't fake: the license plate on their car. To join Xtagged, you'd take a photo of yourself touching your own plate. The plate number became your username, your lanyard, and your proof that you were who you said you were.

"He said to me that if they touch someone else's license plate," Kyle testified, "that would be a felony same as if you opened somebody's mailbox and took their mail."

That isn't the law. (Seriously. There's no such crime.) But it gives you a feel for the pitch. In Andy's telling, Xtagged was already woven into the legal system, so obviously protected that crossing it was a crime. He gave the use case like a man narrating a TV commercial he'd already shot. A young girl meets a man on MySpace. He wants to meet in person. She asks him, "Are you X-Tagged?" Then she can see his face, his plate, and the car he'll drive up in. She'll know what to expect. The perverts and rapists would be locked out, and the children would be safe.

"His company," Kyle said, "was an Internet company that would keep pedophiles and rapists off of the Internet."

Note this for later. The man pitching a child-safety app had already been convicted of a federal firearms felony, had a protective order entered against him by default, and had three civil judgments against him. He never mentioned any of that. Now, you can't exactly blame him. You're not required to open a sales pitch with your rap sheet. But Utah's securities laws require you to disclose material facts to people you're asking to invest. Later a man named Tom Brady, the state's acting director of securities enforcement and not to be confused with Allen Brady, or with the quarterback, would explain to a judge that judgments like those are material facts.

Then came the big claims. The government had given Xtagged two million dollars for research "to keep kids safe." Andy had been on *Maury* and had to stop signing autographs when his lawyer told him the paperwork wasn't done. He'd be on Oprah in six months. He'd have been on sooner, he told them, but he'd pushed the appearance back because his servers couldn't handle the traffic. MySpace had offered five million dollars and he'd turned it down. Andy had an answer ready for why: MySpace makes its money selling ads against millions of profiles, many of them fake. Xtagged would expose the fakes, the profile count would drop, and so would ad prices. "So he said that they would take it and sweep it under the rug," Kyle recalled. "So he was not going to allow that to happen."

This was Andy's gift, or one of them. Every implausible claim came with its own story about why it hadn't happened yet. The fortune existed. The fortune was being suppressed.

To Chris Engelbrecht he added more names. Michael Jordan was "looking at purchasing the company." The company was going to be bigger than Google. The Utah DMV was about to partner with Xtagged so it could check plates against registrations, and Andy was "looking at giving them 51 percent of the

company." Picture the Utah Division of Motor Vehicles owning a majority stake in a dating site. And it was patented. (Kyle got the details: a twenty-year patent with eighteen years left on it.)

Mostly, though, there was urgency. "It was a conversation that dealt with, 'Hurry up, we're about to go public,'" Engelbrecht testified, "'and if you're going to invest, you need to make a decision.'" Every time they talked, he said, Andy's line was the same: "We're on the verge. We're about a week away from going public. So right now is the best time to get in, because once it converts over, you'll be a millionaire."

As it happened, Andy also needed a personal trainer. He agreed to buy "a fairly big plan," Kyle said, but there was a catch. His days were very busy. "He's with lawyers and in and out of meetings." He needed someone to train him at two in the morning, and if the gym could manage it, he'd pay three times the price.

The gym could not. Kyle, who had his own sense of proportion, "said we could not, you know, appease that request."

He did start emailing Andy diet plans and workout routines. Asked later what they were for, he said they were "in his preparation to be on Oprah."

The stock, Andy said, was a dollar a share, with a five-hundred-dollar minimum. That minimum, Kyle remembered, was "the cost of the paperwork for his lawyer to process." Once Xtagged went public, the shares would open at thirty or forty dollars and climb past Google, which in early 2008 traded above five hundred dollars a share. A dollar now, five hundred later. The prosecutor asked whether Andy ever explained how that would happen.

"He did not," Kyle said.

The pitch was on a Saturday. Over the weekend Kyle thought about it, and on Monday he called Andy to ask whether the stock

was still open. What happened next is one of the best little scenes in the whole record, and it's worth hearing in Kyle's own words:

"He asked whom-ever he was driving with, he said, 'Is the stock closed or open?' They said, 'It's still open,' and he said, 'Yes, it's still open.'"

Picture it. Andy is driving somewhere with a passenger. He has a lawyer, a board, a stock price, and a cap on shares, and he doesn't know whether his own offering is still open, so he asks the person in the passenger seat. The passenger thinks about it and reports that yes, it's still open. Andy passes this along: it's still open. Of course it was. With Andy, the stock was always still open.

Kyle told him he had four thousand dollars. That came to four thousand shares.

On March 11, 2008, Kyle bought a Wells Fargo cashier's check for $4,000, payable to "XTAGG INC." He didn't hand it to Andy. Andy told him a man named John would come by the gym to pick it up, and John did. Kyle had never met him before. He believed the man was John Steer, a young relative of Andy's who'd turn up later in a brawl in Bountiful, on Andy's witness lists, and in a long run of emails. In return, Kyle got a document titled "Convertible Promissory Note." He didn't keep a copy, because Andy later took it back.

Chris Engelbrecht came in for two thousand. Before writing the check he called Kyle "to verify a few things," because Kyle had spoken with Andy's lawyer. Andy promised Chris his money back, with interest, after a set date in December 2009, whether or not the company had gone public. "It was a win/win situation," Engelbrecht testified, "because verbally he had said to me that I would get a 12 percent return on that." The note itself said seven percent, but nobody was reading the note. Chris wasn't even there when it was signed. His wife, Melissa, signed it, and on the document his name was written in by hand as "Chris."

That fall Andy called Chris about "doing this conversion." The note was supposedly turning into stock, as promised, and Andy

wanted Chris to come over that evening to sign the paperwork at "his sushi restaurant." Andy really did run a sushi restaurant in Bountiful at the time. A high school junior who worked there would later say his paychecks came rarely, if ever, and that what he heard about every day was the Xtagged stock he'd get. Chris worked late and called around ten. By then, Andy said, "he had already taken care of it, signed the documents, and everything is taken care of."

Chris never got any stock or any money.

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In May 2008, Andy called Kyle with good news. "A percent had opened up."

This is the phrase that runs through the rest of the story: a percent, a whole one percent of Xtagged, Inc. A share was a dollar, but a percent was a different thing, a "royal share," the kind of piece of the company that would make you rich. The price was fifty thousand dollars.

"I told him I'm not wealthy enough for that," Kyle said.

A few days later Andy texted. "They discussed it," and Kyle could have the percent for twenty thousand. Who "they" were wasn't clear. It might have been the board, or the lawyers, or whoever was in the passenger seat. Kyle didn't have twenty thousand either.

So Andy offered to help. If Kyle could raise ten thousand, Andy would "finance it himself" for the other ten.

Kyle didn't have ten thousand dollars in cash, so they built it. The original four thousand counted as part of it. Andy gave Kyle a two-thousand-dollar credit for the diet plans and workout emails, the ones for Oprah. Kyle hadn't charged for them. "He came up to me," Kyle testified, "and said, 'I will give you $2,000 to go towards this 1 percent,' and I agreed." Kyle wrote a second cashier's check for two thousand, dated June 2, 2008. That came to eight thousand.

For the last two thousand, Andy took Kyle's car.

It was a 1998 Chevy Cavalier, about ten years old, and the engine was, in Kyle's careful phrasing, "in there, yeah, just—didn't feel too good." The car didn't run. Andy didn't need it to run. According to Kyle, "he stated that his lawyers just need collateral, and he would give $2,000 for that title."

"He stated it to me," Kyle said, "and I said, 'Of course.'"

Andy chose the meeting place. "Mr. Esquivel wanted me to meet him at Bogie's, which is a nightclub, I believe it's Clearfield. I don't go to nightclubs, so I told him I would meet him in the parking lot."

So in the parking lot of a nightclub, on the hood of a car or a knee or whatever was handy, Andy Esquivel handwrote the terms of Kyle Cluff's one percent. The page survives as the last sheet of State's Exhibit 3. It records two thousand dollars for "the gym and diet," six thousand in cash, two thousand for "the title of my Cavalier," and, at the bottom, ten thousand dollars "financed by him, and X-Tagged." He took back Kyle's first note and gave him a new one. At the top, Kyle remembered, it said "1 percent owner of X-Tagged."

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Kyle wasn't a fool, and he did check. He looked at the website, which was up and working: "it was built, and I looked at it." He talked to Andy's lawyer.

The lawyer was real. He was a Utah patent attorney named Jason Webb, of a Sandy firm called Advantia Law Group, and he'd done some work for Xtagged. Around the time of the one-percent deal, Andy forwarded Kyle an email from Webb. In Kyle's description, it said that "on their last current valuation 1 percent of X-Tag was worth $50,000." That email, together with Andy's pitch, is what convinced him to buy the percent. "I talked to his lawyer," Kyle testified, "which in fact gave me a closure that this was a legitimate company."

Webb didn't testify at the hearing, and nothing in the record suggests he knew how Andy was using his email. What the record does show is the shape of the thing. A real lawyer at a real firm put a number in an email, and the number traveled. A promoter used that number to sell a personal trainer a percent of a company. Months earlier, the trainer's boss had written his own check because the trainer said he'd talked to the company's lawyer. Neither the trainer nor his boss knew the one fact that mattered: there was no Xtagged, Inc. The State's investigator would later testify that the Utah Division of Corporations had no listing for it at all.

Andy did have papers saying otherwise. Back in February 2008, in another notarized deal you'll read about soon, he had signed as "authorized agent" of "XTagged, Inc., a Wyoming corporation." Whether a Wyoming shell ever really existed, or existed briefly before lapsing, is one of the many questions in this story that nobody ever properly answered. Wyoming wasn't where the money came from. The money came from gyms in Davis County.

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Both men waited. Kyle had been promised his money back with three percent interest by December 2009 if the company didn't take off, which made it, in Andy's words, like "putting it in a bank, and with a good interest plan. You'll get it back if it doesn't work." Andy kept moving the date. "He would make remarks saying, for numerous reasons I can't remember, 'It's been postponed.' 'It's been postponed,'" Kyle said. "So he continued to dangle the carrot in front of... my face, and I believed because I'm a... trustworthy person and I believed him."

Kyle stayed close for nearly two years. He tried to help. He got in touch with i-SAFE, a real internet-safety nonprofit in California, and made several tries at setting up a meeting for Andy before Andy finally went. Andy, Kyle noticed, "seemed hesitant. He

wanted to stay in the same level, as if it was comfortable, and none of his promises came to fruition."

At some point the story changed. Andy began telling Kyle he'd given parts of the company "to different combinations of companies." The work was over. "You're a millionaire," Kyle remembered him saying. "We're all done. We don't have to do anymore work, you know. They're going to take it from here."

Then, around Christmas 2009, Andy called with the biggest news yet. Xtagged had been sold "in its entirety."

The prosecutor asked who'd bought it.

"He told me," Kyle said, "it was Donald Trump."

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You might expect that once the company was sold, the investors would get paid. Andy seemed to agree, in principle. Kyle, figuring that if Andy had really sold the company for millions the math ought to work in his favor, emailed asking to be bought out for ninety thousand dollars. Andy's answer is very close to a summary of his whole career: "Well, I could probably get you $90,000, you know, by tomorrow or the next day; but if you hang onto this, it would be worth a lot more."

Kyle didn't get ninety thousand or anything else. After December 31, 2009, he tried five to ten times to call the note due. He used email, because his father's lawyer told him email would do. Andy had moved to Colorado and wouldn't give a new address. The replies, Kyle said, were "attacking my religion and using explicit language towards me saying I won't—I won't see it back. Get a lawyer."

"As soon as I questioned him," he testified, "he blew up, started swearing, got angry, told me to get a lawyer."

Chris Engelbrecht emailed in December 2009 asking for his two thousand dollars. He got no answer. He sent a certified letter to the address on his note, and it came back undeliverable with no forwarding address. So Chris, the gym owner who'd jumped in

because his buddy Kyle had, did something none of the believers would ever do. He went to the government on his own. He contacted an investigator at the Utah Division of Securities named Adam Sweet.

Chris Engelbrecht's complaint ended up in a case file with a number on it, 111701135. For most of the next decade that number would be the realest thing about Xtagged.

Back in 2008, though, there was no case file yet. There was Andy, a lanyard, a license plate number, and a passenger who could confirm that the stock was still open.

Andy was just getting started. That same February, in Salt Lake County, he'd sold ten percent of the company for fifty thousand dollars to a family company belonging to his most loyal friend and that friend's mother.

CHAPTER TWO

Before the Plate

The record of Andres Esquivel starts five days after his eighteenth birthday.

He was born on September 8, 1970. Ogden City police arrested him for an offense committed on September 13, 1988: burglary of a dwelling, a second-degree felony, and theft, a third-degree felony. He was arraigned in custody. The court refused to release him on his own recognizance and set bail at fifteen hundred dollars. A public defender took the case and was later replaced by a private attorney. At a preliminary hearing in October, the court found probable cause and bound him over for trial. On December 12, 1988, in Weber County's Second District Court, he pleaded guilty.

The docket never records his sentence. It does show that five months later, in May 1989, the judge issued a no-bail bench warrant because he'd failed to appear. The docket says the warrant was recalled in 1992 because it had expired. Yet in 1996, at a review hearing he didn't attend, the prosecutor told the court he "has failed to comply w/prob and court orders," and the judge ordered the warrant to "remain active." Nothing in the file explains the discrepancy. In 1997 the court ended his formal probation and moved him to bench probation. The entry notes, again, that the warrant was still active.

Years later, the blogger who reprinted these records summarized them his own way: Andy "went into hiding for ten

years." That's an interpretation, not a court finding. Still, the dates do line up into something like a lifestyle. Andy left Weber County's probation department in 1989, and it never really caught up with him. Later chapters will show the habit continuing.

It's tempting to read a teenage burglary as a sign of what's coming, but most eighteen-year-olds who get arrested in Ogden don't grow up to sell shares in a license-plate dating site. The more useful detail is administrative. Andy learned early that the system ran on paper and patience, and that paper could be ignored for a remarkably long time. A warrant was a sheet in a drawer, and if you didn't come in, the drawer stayed shut.

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In the 1990s and early 2000s Andy collected the ordinary debris of a man without much money. In 1999 two creditors, one of them R.C. Willey, the Utah furniture and appliance chain, won judgments against him of about $5,600 and $1,500. In 2003 there was a third, for about $3,000. None of these are scandalous. Plenty of people have a judgment on file at the courthouse. But in 2012 they'd matter, because Utah's securities laws treat a promoter's judgments as exactly the kind of fact an investor ought to hear about before buying "a percent." Andy never mentioned them to anyone. Prosecutors asked every victim about them under oath, and every victim said Andy hadn't brought them up.

Andy would later say that in the mid-2000s he worked for Comcast under a boss named Saeed Kermani. He'd name Kermani on a witness list in 2013 and say Kermani had "started Single & Dating patent search." That may or may not be true. Andy's statements about other people's patents tended to be about as reliable as his statements about his own. The financial affidavit he filed with the Davis County court in 2013 is more dependable, because lying on it would have been a crime. It said that at his last job, in June 2009, he'd earned twelve dollars an hour, and that he hadn't worked since.

Keep that number, twelve dollars an hour, in mind as the numbers in this book get bigger. It's the only salary Andy Esquivel ever reported to a court under penalty of perjury.

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On or about February 25, 2003, by his own later admission, Andy had a Marlin shotgun. As someone "previously convicted of a felony offense, punishable by imprisonment for more than one (1) year," he wasn't allowed to have one. The United States indicted him in the District of Utah under seal, unsealed the indictment in May, and gave him a federal public defender. The magistrate let him out on his own recognizance on standard conditions: look for work, report to Pretrial Services, give urine samples on request, and no firearms or narcotics.

The urine samples are where it fell apart. On May 31, 2003, Andy tested positive for methamphetamine. On August 1, 2003, he tested positive again. In September he skipped two scheduled tests in a row and didn't show up for the substance-abuse treatment Pretrial Services had ordered. On September 18, the day he was supposed to change his plea, his lawyer argued for him to stay free until trial, and the judge said no. He was taken into custody by the U.S. Marshals.

Five days later Andy fired his public defender. The minutes say: "Court grants Defendant's motion to dismiss the public defender. Paul Gotay makes an appearance on behalf of Defendant." Two weeks after that, with a lawyer he'd chosen himself, he pleaded guilty to being a felon in possession of a firearm. The court found him "fully competent." In January 2004, Judge Ted Stewart sentenced him to six months in federal custody and thirty-six months of supervised release. The conditions included six months of home detention, no alcohol, and drug testing.

The judgment has one more detail. Under "Defendant," it lists "Andres Esquivel aka James A. Martinez."

Nothing else in this story mentions James A. Martinez. He doesn't send emails, run a charity, or claim co-ownership of Xtagged, Buzz/Wiser, or anything else. He appears once, on a federal form, and vanishes. Given how many people Andy would later be accused of pretending to be, James A. Martinez might be the only alias in the record that he didn't eventually put to work.

The pattern in that federal case is worth noticing. He was released on promises and broke the conditions. He fired his appointed lawyer just as the case was ending and switched to one he'd picked. Then he was found entirely competent and pleaded guilty. Much of it would happen again a decade later in Farmington, with one long detour through a finding of incompetence.

In March 2004, apparently while Andy was in federal custody, a former live-in partner went to the Third District Court in Salt Lake and asked for a protective order. A judge granted a temporary order. A transportation order shows up in the file, the kind used to bring a prisoner to a hearing. Andy didn't come to the hearing in April, and the court entered a permanent protective order against him by default. The docket doesn't say what the petition alleged, and this book won't guess. The woman involved is a private person, and it's her story, not his.

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By 2007 Andy was out and in the dating business.

The site was called SingleAndDating.info. As far as the record shows, it was his first venture and the rough draft of everything that came after. That year it got a two-part feature on Fox 13 in Salt Lake City, and Andy kept a copy of the broadcast and posted it on YouTube himself. He wasn't going to let anybody forget it.

The anchor opens with the premise. "Internet dating is nothing new. But a new website offers a new twist hoping to help you find the love of your life in the fast lane." Then reporter Kirk Yuhnke takes over. Single people put a sticker on their car advertising that

they were available. If you saw someone you liked at a stoplight, you didn't have to honk or chase them. You wrote down their plate number, looked up their profile at home, and sent a nice message. Yuhnke called it a site "for shy people especially."

Andy appears as the founder who had trouble meeting women in bars. "Everybody's complaining that there's no way to tell who's single and who's not," he says. The site had about five hundred users. The segment ends on a happy note for its founder. Andy, the reporter says, is "officially off the market. All thanks to his own website." Andy tells the camera he saw her join, emailed her, and now they're engaged and "supposed to be married next month."

Then the second half aired.

"But the question is," the anchor says, "is using your license plate on the internet really safe?" Fox 13 asked the Salt Lake City Police Department. Putting your plate number online, an officer said, wasn't such a big deal. The sticker was another matter. A sticker on your bumper, the officer explained, announces that "you're a single female." Somebody "could potentially seize that opportunity if they want to try and victimize somebody. They could follow that person home." The police told viewers to meet in public, tell a friend, and not go to a stranger's house. The safety feature was the safety problem. A bumper sticker that says "I'm single" also says "I'm alone."

Andy posted both halves. Let that sink in for a second.

This is one of the quiet constants of the Esquivel archive. He doesn't appear to have been able to tell coverage from good coverage. A news story was a news story. Being on TV meant you were somebody, so a TV segment warning women about his product went on his YouTube channel, and later he'd describe it as proof that his children had been "so proud of me in 2007 after Fox13." Years later the man running the blog against him would post the same clip with the caption "Andy's 15 minutes." Two

enemies who agreed on nothing else agreed that people should see this video.

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SingleAndDating.info had the essential idea: your license plate is your identity. In October 2007 the domain XTAGGED.COM was registered, and the idea got a new name and much bigger promises.

The shift from Single & Dating to Xtagged is more than branding. Single & Dating was a novelty dating site that a local station could cover as a cute human-interest piece, and its claims were small. It said it was a way to meet people. Xtagged said it was a way to protect people. The license plate stopped being a pickup line and became an identity check. You didn't use Xtagged to find someone cute at a stoplight. You used it to keep the predators out. It would link to sex-offender registries, police databases, and the DMV, and it would save children.

A single guy with a dating site asks you to sign up. A man with a child-safety platform asks you to invest. Under the new pitch, Andy wasn't selling dates anymore. He was selling a stake in the future of internet safety, and the future of internet safety, as everyone knew in 2007, was worth millions or billions. It was worth more than MySpace, which News Corp had bought, along with its parent company, for about $580 million in 2005. That number got around. It sat in the background of every pitch like a lottery jackpot.

He also needed a base of operations, and he found one that will strike any reader as perfect. Around 2008, as Chapter One mentioned, Andy ran a sushi restaurant in Bountiful. It was called Xtreme Sushi.

The high school junior who worked there was named Dakota Iverson, and in 2013 he wrote down what it was like. Andy hired him on the spot. The pay was $6.50 an hour, and he got his first check after about two months. Over the next four months, Iverson

said, he got nothing else. What he did get, daily, was the promise of a thousand shares of Xtagged stock, which Andy said would be worth "millions." "I trusted in Andy," Iverson wrote, "because he was such a good liar." Paychecks, he added, "were not what I would call a 'usually thing' at all while working for Andy – in fact they did not really exist."

One day Iverson showed up for his shift and the restaurant was locked, dark, and missing things. "In the end he just packed up and ran away without paying me another dime and with out even saying a word." Iverson figured he was owed $584.35 for 89.9 hours. Years later, after he found the blog, he started attending Andy's court hearings. Andy's response, on video, was that the kid had stolen a basketball, and that it was a two-thousand-dollar basketball.

That's the economic model in miniature, and the rest of this book plays it out at larger scale. A teenager works the counter for $6.50 an hour and is paid in stock in a company that doesn't legally exist. He's told the stock will make him a millionaire. Then the lights go out, and when he asks about it, there's a story about a basketball.

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One more thing about the years before the plate. Andy had a gift that the archive can only partly preserve, because it's in his voice. He's charming. That's not the word his victims used, and not the word the blog used, but it's the word the State of Utah's own probation officer used in 2015. After reviewing more than a year of Andy's missed appointments and unpaid restitution, the officer wrote, in clinical language, that Andy "is superficially charming."

Superficially is doing a lot of work there, but so is *charming*. Nobody gives a dating-site founder their car title because he's rude. On video, even at his most absurd, and he gets very absurd, Andy is warm, funny, quick, and delighted with himself. He gives the people in his videos big titles. He calls his friends "bro." He

thanks God. He makes everyone in the room feel that they're in on something huge that the outside world will eventually admit it underestimated. When he sees you're doubtful, he doesn't argue. He raises the offer. You thought it was a dating site? It's a child-safety platform. You thought it was worth fifty thousand? It's worth a billion. You're worried you can't afford it? He'll finance it himself.

In 2007 he brought that pitch to the one place in Utah where charm is the main currency, the nightclubs. That's where he met the man who would spend the next decade writing it all down.

CHAPTER THREE

Last Call at the Playground

Every story like this one needs a straight man. He's the person in the room who looks at the thing everyone else is excited about and asks, flatly, what it actually is.

In this story the straight man was Daryl Acumen. In the fall of 2007 he didn't want the job.

Acumen was a data guy. He'd come up through the dot-com boom at ImageCafe, a startup that built websites, which Network Solutions bought in 1999 as something to sell people after they'd registered a domain name. Network Solutions ran the registry for .com, .net, and .org, so Acumen spent the next few years, quite literally, working for dot-com. He switched from sales to analytics there and kept climbing, until he was the company's in-house numbers man: the one who built the revenue forecast the executives took to Wall Street.

In 2002 he went to web analytics full time, at Omniture, the fast-growing Utah company whose software told some of the biggest websites in the world who was visiting them and why. He was employee number twenty-five and a founding member of its consulting practice. By 2007 he was a Senior Best Practices Consultant, managing accounts like eBay, Sprint, Sears, and Nike. A consultant who tells other people how to read their numbers eventually gets asked whether he's ever run a website himself. Acumen decided he should, so he built one to be, as he put it, "my

own guinea pig." He'd install the software, run the experiments, watch the traffic, and take what he learned back to his clients.

The guinea pig was a nightlife site called PartyUtah.com, and it grew. In a state with Utah's liquor laws, nightlife is a smaller and more specialized beat than it sounds, and nobody else was covering it well. PartyUtah became the place clubs advertised and people checked before they went out. Then it got a sibling, UtahRaves.com, with a message board where the state's electronic-music crowd argued about DJs until sunrise. In Acumen's own words, he "owned all the nightlife websites in the state at the time." When PartyUtah ran your club's banner, people showed up. At its peak the site did somewhere between six hundred thousand and three-quarters of a million page views a month. He knew this because measuring things was his job, and the site was, after all, an experiment.

That's the context for his first impression of Andy Esquivel. Acumen sat through a lot of pitches from promoters. As he later put it, "I dealt with so many promoters who were just like him on a weekly basis." Club promoters in Salt Lake were a type. They were big talkers who wanted free drinks, VIP access, a percentage of the door, and some piece of whatever was happening. In mid-2007, Acumen later said, Andy had grabbed a Skybar banner from PartyUtah.com and put it on his own site, apparently hoping to get free drinks from Skybar's owner. That owner, a man named Rich, was a friend and a client. Acumen built and hosted Skybar's website. Rich asked him to check Andy out and find out whether he was for real.

They met in November 2007. Andy was a fast talker, the kind who finishes your sentences for you and then starts a new one before you can object. He gave Acumen the full pitch: a dating site that used license plates to authenticate users, Bluetooth technology, and patents on everything. MySpace, Andy said, was offering a hundred million dollars for the company.

Three months later, in the gym in Bountiful, the MySpace offer would be five million. In November it was a hundred million. Prices in Andy's world moved with the audience. A personal trainer heard five million, because five million sounds like real money that a real company might pay. The owner of every nightlife site in Utah heard a hundred million, because he knew what web companies sold for and Andy needed to impress him.

It didn't work. "The MySpace buyout claim," Acumen wrote, "was downright ridiculous."

He listened anyway. That's the thing about straight men. They show up, frown, and stay through the whole scene. He had two reasons. A friend had sent Andy, and the patent claims sounded plausible. If they were true, there might be some real intellectual property behind the noise. "I wouldn't find out until much later," he wrote, "that his patent claims were absolute garbage."

He made Andy a modest offer. He'd give Xtagged a link on PartyUtah.com, putting its logo into the rotation of partner logos on his homepage, because it cost him nothing, and he'd introduce Andy to some technology investors he knew in Park City who could decide whether there was anything there worth funding.

His fiancée, Shirley (they'd marry later), objected. She thought Andy was full of crap. Acumen's reasoning will sound familiar to anyone who's ever done a favor for a friend of a friend: "I said that there was no risk since it wasn't really costing me anything except my time and I owed it to my friend to at least hear him out."

There it is again, the phrase *no risk*. Daryl Acumen said it to his fiancée in November. Three months later Andy would say it to Chris Engelbrecht. There are no risk-free transactions in this book.

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The Park City meeting went nowhere. Acumen's investor friends heard Andy out and told Acumen afterward that the idea wasn't worth their time and they doubted there was any real proprietary technology "under the hood."

The drive home was worse. Andy had come to Park City with a friend named Allen Brady, and Acumen and Shirley ended up giving both of them a ride. On the way down the canyon they hit a snowstorm and spent three hours stuck on the freeway, with Andy in the car, talking.

"It was then that my wife realized that not only was Andy Esquivel completely full of crap," Acumen wrote, "but he was probably insane as well. I was too busy fighting traffic to notice."

Picture the scene: the wipers, the brake lights, the white-out on I-80, the fiancée in the passenger seat realizing she's right, and in the back seat, at length, a man explaining Bluetooth profiling and the coming collapse of MySpace. Daryl Acumen grips the wheel and watches the road. He's not convinced and he's not arguing. He's in traffic. Over the next several months Shirley tried to talk him into keeping as far away from Andy as he could. It took longer than it should have, and he'd be the first to say so.

The other place Andy wanted to be seen was a club in Park City called Playground.

Playground had been Suede, a well-liked jazz club that closed after years in business. A couple of guys bought the lease and the liquor license and reopened it under the new name. The money, Acumen heard, came from their mother. It was a nice room with potential and not much luck. Andy approached the new owners with a pitch about huge Xtagged events that would bring in crowds. Somewhere in there, by Andy's account, they gave him ten percent of the club in exchange for a piece of Xtagged, or exclusive Utah rights to Xtagged, depending on which year you asked him. A club called Bogie's, up north, had supposedly been sold those same exclusive Utah rights already. Bogie's, as it happens, is also where Kyle Cluff would later stand in the parking lot and watch Andy handwrite the terms of his one percent.

Andy invited Acumen up to photograph an Xtagged event and meet the owners. Acumen went twice.

The first time, he did what any business owner would do and introduced himself to the club's owners and talked about promoting their events on his site. Andy was furious and pulled him aside. He'd "already hooked [me] up with them bro," he said, and Acumen had "embarrassed him" by going around him.

Acumen's answer is a good example of how he talked to Andy in those early days, and how he'd keep talking to him, in less polite language, for the next twelve years. He remembers it this way:

"Look dude, nobody reps PartyUtah.com but me. I never gave you permission to represent us. I don't mind hangin' with you, but if you're going to try to worm your way into my business like that, we're gonna have issues..."

When he wrote about it later, he put it more formally. "I told Andy very plainly that although I appreciated the introduction, NOBODY represented PartyUtah.com but me." His website sold itself. "The last thing I needed was some small-time upstart interfering with my operations." Either way, the message was the same, and it's worth noting that this was the first time Daryl Acumen told Andy Esquivel where the line was. Andy would spend the rest of this story stepping over it.

The second time was supposed to be the big Xtagged party, and it was a complete bust. Andy had bragged about buying a dozen big-screen TVs for the club, and he'd brought one from home as an example. Three or four of his friends came. Otherwise the place was dead. Acumen talked to the DJ for a while and left once it was obvious nobody else was coming.

Playground closed within a year. "They didn't even survive long enough or make enough money," Acumen wrote, "to remove the 'Suede' logo from the floor at the club's entrance." It's the right image for this chapter. The new sign hung over the door, and the old name was still under everyone's feet.

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Before Acumen left the Playground party that night, Allen Brady found him at the back bar.

Allen was Andy's constant companion. Over the next twelve years he'd drive him, bail him out, pay his lawyers, deliver his paperwork, sit behind him in court, and get scolded by a judge for raising his hand. He was loyal in a way that would cost his family fifty thousand dollars. That night, though, he had doubts. He told Acumen he was beginning to think Andy was "a fraud" and completely full of crap.

Acumen had come to the same conclusion, and he decided not to say so.

"I reassured him that many early stage ventures seem shifty at first," he wrote, "and that he should keep a healthy skepticism and keep his eyes open, but that I was sure Andy was probably an alright guy. In short, I lied!"

That's the most honest sentence anyone writes in the entire archive, and it comes from the man who spent a decade calling everyone else a liar. He doesn't dress it up. He was being polite to a near-stranger at a bar, didn't want an awkward conversation, and didn't think it mattered. Later on he'd think it mattered a lot.

What he didn't know yet was that by the night Allen Brady confided in him at Playground, the Brady family had probably already paid in. The family company was a Utah outfit called GAB, LLC, whose members and managers were Gene Allen Brady and Georgia J. Brady. When GAB signed its notarized "Subscription Agreement" with "XTagged, Inc., a Wyoming corporation," acting "through Andres Esquivel," in February 2008, it recited twenty thousand dollars in cash and cash equivalents that Andy had "heretofore" received. GAB was now handing over thirty thousand more, for ten percent of the company at a total of fifty thousand dollars. The agreement also notes that GAB,

through its members, had "heretofore expended time, money and effort in incorporating this Company."

Like most subscription agreements, it included the standard boilerplate: an investment in the company "is highly speculative and subject to substantial risk," and the securities were not registered. Somebody's lawyer had done the work properly. The documents were in order. It was the company that wasn't.

Georgia Brady was Allen's mother, a fact that would come up for years. In April 2010, two years after signing, she emailed Steve Klemark, the Xtagged info address, and a central-Utah lawyer. "As usual, he didn't keep his commitment and is still jerking us around," she wrote of Andy. "Like it or not, Andy has committed fraud and if you continue to protect him, you will be part of his fraud game." She gave them a deadline in the style of someone who'd been waiting a long time: "So, do we do this peacefully and professionally or the hard way? Your choice – 24 Hours!"

Twenty-four hours passed, then about ten years. The blog later claimed her son talked her out of pressing charges; her email says only that she was done waiting. She never did press them, and the fifty thousand dollars never appeared in any criminal case. Her son kept driving Andy to court.

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Acumen kept the Xtagged logo in rotation on his homepage for a while. He called it "variety." He talked to Andy on the phone now and then for a few weeks after the Playground disaster. At one point, on an unrelated matter, he spoke with Andy's patent attorney. Andy told him not to call the attorney again, because the attorney "was trying to steal the company from him," which Acumen notes was "a recurring theme over the years." In Andy's world, everybody who got close to the company was about to steal it. The one valuable thing Xtagged ever had, it turned out, was the idea that it was worth stealing.

On January 27, 2008, at Andy's request, Acumen let someone photograph his license plate. That doesn't mean he signed up for anything. He kept the photo as proof of his timeline. By late January he'd decided Andy was running a scam. In February he more or less stopped taking the calls. He later counted his involvement as about three months: "the three months from late November 2007 until February 2008."

It wasn't quite that clean, because of the other introduction he made.

Acumen's mother, Rebecca Dunn, was out of work at the time and living in his house. Her last few years had been hard. She'd been laid off after nineteen years with one company. While she was going through a bad divorce, and while her sister was dying of cancer, a boyfriend named Paul came along. He stole checks from her purse, forged her name on them, and bought himself a BMW and a Nissan 350Z. He also taught her to chase federal contracts that didn't exist. Acumen had made sure Paul went to prison for it, and then he'd taken his mother in.

She had decades of management experience and nothing to apply it to. Andy talked about funding constantly. Acumen thought Andy was smart, in a scattered sort of way, and probably full of it, but he couldn't see a downside. So he gave his mother Andy's number. If Andy actually wrote her a check for some consulting, great. If he didn't, the worst case was that she'd lose some time she wasn't using anyway.

That was the reasoning. Hold on to it, because it turned out to be the most expensive bet in this book, and it didn't cost a dime.

Dunn met Andy once in person, for about three hours, over breakfast at her son's house in Cedar Hills, and by every sign she liked him. (In her own later account, her son phoned Andy and suggested the meeting. On the basic point, that her son made the introduction, everybody's version agrees.) Not long afterward, the living arrangement fell apart. In March 2008, by his account, she was trying to break him and Shirley up, and he kicked her out. On

her way out of town she called Andy, and Andy sent her three hundred and fifty dollars. That was the start of their working relationship. Mother and son stopped speaking. It would be five years before they really spoke again.

Acumen lost touch with Andy. Andy did not lose touch with Rebecca Dunn.

Acumen's summary, written years later, is short and has no self-pity in it, which is how straight men talk about their own mistakes: "Looking back, it was a huge mistake to deal with Andy for as long as I did. The red flags were all over the place, but like many I was too busy to pay them much attention." His wife, he added, still tells him "I told you so!"

There's a coda, and it fits the man.

Late in 2009, a few weeks after a phone call you'll read about in Chapter Five, Andy called Acumen and asked whether he'd sell PartyUtah.com. Acumen named a price of a hundred and fifty thousand dollars, the way you'd name a price for your house to a stranger knocking on the door. It wasn't an offer. It was a number big enough to end the call. Andy never forgot it. For years afterward he'd tell people that Acumen had tried to sell him the site, as though the price proved something.

Early in 2010, Steve Klemark, whom you'll hear a lot more about, told Acumen he thought Xtagged.com was worth about a thousand dollars, because he'd seen it on Google.

Acumen, who measured website traffic for a living, told him it wasn't worth fifty bucks.

That's the straight man's job. Everyone else in the scene is talking about billions. He's the one who looks at the numbers and says, out loud, that they don't add up. He'll be saying it for the rest of this book. Mostly nobody will listen.

CHAPTER FOUR

The Last Half Percent

By the spring of 2009 Andy Esquivel had two problems, and they were the problems every promoter eventually runs into. The first was that the people who'd already paid him had started asking for their money back. The second was that he needed more money from people who hadn't paid him yet.

Kyle Cluff was the bridge between those two groups. He'd put in six thousand dollars in two cashier's checks, plus a Cavalier and a stack of diet plans, and the promised December 2009 payout date was getting closer. Meanwhile he was still trying, sincerely, to help Andy succeed. Part of helping was talking about Xtagged to the people around him, and those people were the ones Andy needed.

In April 2009, Andy came to a gym called Performax in Clearfield, about fifteen miles north of Bountiful. He was there to meet Kyle and a teenager named Logan Laws, who worked the juice bar. Logan was eighteen, and he was interested. The sales manager at Performax was a guy named Ryion Butcher. Butcher, as he later put it, "wasn't doing anything at the time, and they were all going to meet, and so—I went and sat in."

If there's ever a movie of this, that's the line for the trailer. A man with nothing better to do drifts into a meeting and loses five thousand dollars.

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By 2009 the pitch had gotten bigger, the way a story gets bigger every time it's told.

In 2008, Kyle had heard that MySpace offered five million dollars. In 2009, Ryion heard Xtagged was going to be "bigger than all the current social networking companies out there," meaning Facebook and MySpace, and that Google was interested in buying it and had a meeting set "within the next two weeks." Ryion heard a valuation, though he wouldn't swear to an exact figure: Andy "was throwing all sorts of numbers around. He said upwards for $500,000,000 to $1,000,000,000." According to the Utah Division of Securities' later findings, Hugh Hefner had wanted to buy in for millions, but Andy turned him down because he wanted to "keep it clean." Andy was going on Oprah, which put him about eight months behind the schedule he'd given Kyle. The DMV had approved Xtagged. The company had ten lawyers, five in Utah and five in California. And according to the state's summary, Andy had once met with "a room of Federal Bureau of Investigation (FBI) agents and 'put them in their place' and they approved of XTagged."

Some claims were so large they became political. If Mitt Romney "came on board with XTagged," Andy said, "he would win the presidential election in 2012."

That one is preserved in an official Utah Division of Securities filing, in formal administrative prose, on state letterhead. You can't make this stuff up. Andy did, but you can't.

As before, though, the most effective part of the pitch was scarcity. Andy didn't say Xtagged would be big. He said it was almost gone.

"There was a half of a percent left in the company," Ryion testified, "and it was the last half percent, and that if I wanted in, I better act quickly, because there were so many investors in line looking at buying this last half percent up."

The last half percent was worth fifty thousand dollars, Andy said. He'd let Ryion have it for five. Actually, for less than that. Ryion could pay twenty-five hundred, and if he'd "kind of help out" with marketing, that would cover the rest.

Ryion had a final question. What if he wanted out? Andy reassured him. "He told us that rest assured that anytime we wanted out, he would give us our money back with 12 percent interest," Ryion said. Andy could do it anytime, because "he had investors lined up."

Note the rate. Kyle got three percent, Chris Engelbrecht was told twelve and given a note that said seven, and now Ryion was promised twelve. Interest at Xtagged worked like everything else at Xtagged. It depended on who was asking.

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On April 7, 2009, Ryion Butcher wrote a check for $2,500 to "X-Tag." The Division of Securities later found that on the same day he handed over another $2,500 in cash for Logan Laws's half percent. In return he got a document titled "Consent of All Members of the Board of Directors," which said he'd been issued shares in the company. The share count was a little confused. It said "150,000 shares," and then, in parentheses, "(100,000)." On the stand, Ryion explained it as gently as he could: "he mixed up the wording." The paper also said five thousand dollars had been paid, which, counting Logan's cash, it had.

About ten days later, "another half percent became available."

This is where you might expect even a sympathetic reader to stop. Ten days earlier, Ryion had been told he was buying the last half percent of the company, and now there was another one. Ryion felt it too, though only in hindsight. "It seemed like every single week," he testified, "the price of it kept going up every single week." That week, the Division found, Andy said one percent was now worth fifty thousand dollars, or would be next

week, and a million the month after. A rising price is the most convincing argument there is for buying right away.

On April 17, Ryion wrote a second check for $2,500. He got a second board-consent document for another fifty thousand shares and a title: "X-Tagged representative of Utah."

"That's the title he gave me," Ryion said, "which I have no idea what it even means."

His duties as Utah representative lasted about two weeks. He helped with the website. He made a promotional YouTube video with Andy, "a funny—promoting the stickers—that he goes around and puts on cars." They planned to shoot a commercial at the gym. He was supposed to schedule things, "a lot of which Andy would fail to show up or appear or get the things that I needed to me." He did what Kyle had done, only faster, and what Daryl Acumen had started doing, in his own way, back in 2008. He checked.

"I found out quite quickly," he testified, "started to do my homework on Mr. Esquivel, and started to find out a lot of the things that he had been telling us were in fact lies."

Two weeks after he bought the last half percent, Ryion Butcher became one of the first investors to quit believing.

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Andy's defense attorney later spent some of the preliminary hearing on this part, because it could hurt the state's case. Ryion wasn't a naive pensioner. He was a gym sales manager who'd been given a title and a role. Wasn't he really a partner, an insider? Hadn't he done the math?

It was a fair line of questioning, and the attorney ran it carefully. Andy had valued the company at somewhere between half a billion and a billion dollars. He'd sold Ryion one percent for five thousand. One percent of a billion is ten million. "Did you do any math there to—"

"I know," Ryion said. "I feel really stupid. Yes."

It's the saddest line in the transcript, and the most human. It also explains the whole scheme. Nobody believed the numbers. The numbers were never the point. They were too big to check, and that made them less like a valuation and more like the weather, a sense that something huge was coming and you'd want to be standing close when it hit. Ryion didn't think Andy had found ten million dollars for him. He thought Andy was going somewhere, and five thousand dollars bought a seat in the car.

About a month after the second check, Ryion asked to get out. He was getting ready to buy a house, he told Andy, and he could really use the money. Andy was gracious at first. "'Absolutely,'" Ryion remembered him saying. "'I have an investor that's willing to pay $50,000 right now for it, so it will only be helping X-Tag, but yeah, I'll give you your money.'"

The money would come Monday. Then it would come Wednesday. "Then he just kept dragging it out and out and out further and further and further." In the Division's version of the same period, Andy said he "needed to get things worked out because it might have to do with insider trading."

That's another detail worth stopping on. Andy was a man who'd never registered his company, never held a patent anyone could find, and never been licensed to sell securities, and he invoked federal insider-trading law as the reason he couldn't give back five thousand dollars.

Eventually Ryion told him what he thought, which was that Andy wasn't an honest man. Andy blew up, and then he did something that told Ryion everything about the person he'd been dealing with. He sent a mass message to the Xtagged network. "Started telling all the other X-Tag people," Ryion testified, "that he kicked me off of X-Tagged because I was gay and I was posting gay pictures of myself on X-Tag." The message, Ryion said, ended by saying he'd never see a penny of his investment.

Ryion kept the email.

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Logan Laws was a different story, because Logan had a father.

Logan was about to leave on a mission for the Church of Jesus Christ of Latter-day Saints. He'd paid twenty-five hundred dollars for his half percent, money he'd borrowed from Ryion. When things started falling apart, Logan's father apparently did what fathers in Davis County do. According to the blog, he made it clear to Andy that if the money didn't come back, the next call would be to the authorities. Andy later said, on video, that Logan's dad came to "my restaurant in Utah."

The money came back, but not from Andy.

On September 14, 2009, a man named Shar Jenkins bought a twenty-five-hundred-dollar cashier's check payable to Logan Laws. Shar was a friend of Andy's from the Denver area, a man with marketing ambitions who'd later star in Andy's e-cigarette commercials as a character called "Wiserman." Shar became, in Andy's words, "the last investor we took," and he assumed Logan's stake. "I gave Logan that cash his check to kind of buy him out of the way," Shar explained cheerfully, in a video Andy posted for the stated benefit of "our lawyers." "They were crying and they wanted out."

So Andy paid off an eighteen-year-old missionary with money he'd just raised from a new investor. Andy found that so obviously legitimate that he put it on video, complete with a picture of the check. Logan went on his mission. He'd later be the only person on Andy's own witness list the prosecutor didn't object to; the blog said he was eager to testify for the State.

In the same video, Andy turned to Shar and asked him straight out: "Am I a scam, Shar? Did I run away with your money?"

"In fact," Shar said, "I love you, bro."

In the Esquivel archive that's more or less the closing argument for the defense. It isn't a document or a balance sheet or a buyer. It's a man on camera saying he loves you, bro.

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Five thousand dollars doesn't sound like much against the numbers in this book. It's useful, though, to follow what happened to it, because Andy eventually explained it himself, twice.

The first time was to Rebecca Dunn. At some point, according to the long account she wrote in the summer of 2011, Andy "finally admitted" to her that Ryion "actually did give him $5,000." He explained why he hadn't paid it back: "he made me so mad that I decided not to write him a check."

The second was to a Colorado court. Years later Andy would argue that five thousand dollars he'd handed the mother of two of his children, money the blog believed was Ryion's, should count toward what he owed her. The court refused. That story comes in Chapter Thirteen. For now it's enough to know that the last half percent of a billion-dollar internet company may have ended up as an argument about back child support.

Over the next few months Ryion did the thing that would eventually make him, in Andy's mythology, the second-most-hated man on the planet. He started telling people. He put up a blog warning about Andy Esquivel and what he called "the investment scam." He kept it up for years. On cross-examination, Andy's attorney framed it as a personal campaign "to say bad things about him." Ryion corrected him. It was a campaign, he said, "of warning people about Mr. Esquivel."

Andy also circulated an email that he said came from Ryion. It was sent from an address ending in "ddd.com." He first posted it in March 2012 as proof of "perjury" and attached it again to an email to the prosecutor in 2013. Here's how it was signed:

Ryion Butcher
1% Owner XTagged – Entitled to 1% of all dividends and profits
World Peace!

Andy meant it as proof that Ryion considered himself an owner rather than an investor, which was Andy's whole legal theory. Whoever actually typed it, it's the driest joke in the archive: a title in a company that doesn't exist, one percent of profits that never existed either, and a wish for world peace on the way out.

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In May 2009, Andy's world got a little more physical.

On May 24, outside a place in Bountiful that Andy called "Heroes," there was a fight. It involved Andy, his young relative John Steer (the man Kyle believed had picked up his first check), and an unknown number of other men. Andy's count of the attackers grew over the years, from twelve to fifteen to twenty. In his telling the fight was a coordinated ambush, an "attempted kidnapping" whose attackers supposedly included off-duty Bountiful police officers. He said John Steer was hit in the head with a pool ball fourteen times and ran up a five-thousand-dollar hospital bill, and that this was attempted murder. He recorded part of it on his phone. In a later video he walked viewers through the footage and showed his knuckles to prove he hadn't been the aggressor. In the same video he gleefully narrated a moment when someone "squeezed out" and slapped a kid "in the head of my phone and he started screaming like a little girl. It's pretty funny."

According to the blog, the police report listed four attackers, not twenty. Andy, for his part, said the report named him the "primary victim," a detail he'd cite for years. Bountiful's prosecutor nonetheless charged both Andy and John Steer with disorderly conduct, an infraction, plus failure to appear. Steer paid his three hundred dollars the hard way: the state took it out of his 2010 tax refund through a program the paperwork cheerfully calls "Gotcha." Andy's case dragged on until 2012, when he pleaded guilty to disorderly conduct, by affidavit, from out of state, under a plea in abeyance.

Andy would come back to the Bountiful fight for the rest of his career as the founding injustice. The prosecutor was corrupt and the police were conspirators, and it was all connected to the people who wanted to steal Xtagged. "Don't ever call 911 in bountiful," he'd write in 2012, "because I did and it cost me $1,500 to call the Bountiful police."

It never quite added up, but nothing did. By the summer of 2009, Andy had raised money from a gym trainer, a gym owner, a gym sales manager, a teenage juice-bar cashier, and the family of his most loyal friend. The Division of Securities would eventually total the value collected from the four Davis County gym investors at seventeen thousand dollars, thirteen thousand of it never returned. Other sums were alleged but never proved. The blog would later claim Andy had taken money from relatives, and a woman in Ogden would allege, in a lawyer's email that Andy leaked himself, that she'd lost far more.

He'd also run out of gyms. The investors were asking questions. One had a blog.

So late in 2009, Andy Esquivel did what any visionary does when his startup is in trouble. He announced that he'd sold it.

PART TWO

The Wiser Years

CHAPTER FIVE

Sold! For Millions!

In the history of American business there are a few famous announcements. Steve Jobs walked onstage and pulled a phone out of his pocket. And on December 30, 2009, an email went out from an Xtagged account to KSL, ABC4, Clear Channel, and Fox 13. The subject line was all capitals:

XTAGGED SOLD! FOR MILLIONS! WAS UTAH OWNED!

It was signed by someone called "Joe G," who reassured the press that he was fine with the transaction. "Don't feel bad for me," Joe wrote, "Andy has made sure i am taken care of." A copy of the same message from the company's info address was signed by someone else, "Steve K."

You can see the problem. When a company sells for millions, the press release doesn't usually come with a note from a guy named Joe assuring reporters that he's personally all right. Real acquisitions also don't get announced by two different people in two different emails. But it was Christmas, and the investors were starting to ask for their money, and Andy had good news to share. He'd been sharing it for two weeks already.

On December 15 he'd emailed a long list of people, including a KSL contact and, for some reason, an airman at Hill Air Force Base. "And yes xtagged has been sold," he wrote. "The announcement will surprise you all ... new years eve." He listed his ventures in case anyone was keeping score: "Xtagged, Car

coverX, X ring, Buzz/Wiser, Babywand, Pic ID, and of course (B.T.P) Blue Tooth Profiler."

On December 20 another email went out, this time signed by "the new owners of xtagged." It laid out the new rules of membership (users "must have a pic of you and your car in fist upload") and then delivered the line you'd want on the cover of this book:

"Andy will still be on board. He will be to Xtagged what Tom Anderson is to myspace!"

Tom Anderson, for those who weren't online in 2006, was MySpace's co-founder and every new user's default first friend. He was the smiling guy in the white T-shirt looking back over his shoulder at you. When News Corp bought MySpace, Anderson stayed on as the friendly face. So the new owners of Xtagged, whoever they were, had kept Andy on in the same role: founder emeritus, everybody's friend, the face of the brand.

In a video from the same period, Andy explained that the new owners had generously let him say a few words. "This is Andy with Xtag," he begins. "Well, it used to be with Xtag. Xtag was sold." He's thrilled. "The site was just sold, but at the same time the new owners called me. I asked them if I could do this quick little video." Everybody who'd invested in Xtagged, "about seven people all together," he says, "is all getting paid back."

The trouble was that nobody had bought Xtagged. There were no new owners, and the email from them came from an account Andy controlled. No purchaser, purchase agreement, wire transfer, or closing ever turned up anywhere in the record. The only trace of any sale is a domain registration changed to "steve k." What the record does show is a man who, that same December, close to Christmas, was telling Kyle Cluff that the company had been sold in its entirety to Donald Trump.

Which was it, then? Trump, "Steve K," "Joe G," or the new owners? Of course it was all of them, depending on whom Andy was talking to and what that person needed to hear. Kyle needed

to hear "millionaire," so the buyer was Trump. The press needed to hear "Utah owned," so Joe G got taken care of. And the people who'd want to know why Andy was still running everything needed to hear about Tom Anderson.

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Daryl Acumen got the news too, and by then he had a reason to read it.

That November, his mother had called him out of the blue. They'd been estranged since March 2008, when he'd asked her to leave his house. She was calling because she wanted to put him in touch with Andy.

Then Andy called him directly. On Thanksgiving Day, November 26, 2009, Daryl and Shirley Acumen met family for dinner at Mimi's Cafe. They'd found out that day that Shirley was pregnant, and over dinner they told Shirley's son, his stepson, that he was going to be a big brother. There's a photo. Acumen's phone rang as they walked out to the car.

It was Andy, with a question. A man named John Richards had come up in one of his deals, and Andy wanted to know whether John was legit.

Acumen knew John Richards. Richards was a well-respected Silicon Slopes venture capitalist who'd invested in Omniture early on, and he was about as legit as Utah venture capital gets. What Acumen was thinking, as Andy talked, was something else: *I know John is legit...but I don't even know if you are.*

He didn't mention the baby. He sat in the parking lot with the best news of his year and kept it to himself, because anything he told Andy now, he suspected, would go straight to his mother, and anything he told his mother would go straight to Andy. He was right about that, as it turned out, and it would matter.

It was the first time Acumen had heard from Andy in almost two years. (Within weeks Andy would be calling again, this time to ask whether Acumen would sell him PartyUtah.com.) The last

time Andy had been in Acumen's life, his mother had been a woman with time on her hands and Andy's phone number. Now she was in it with him, deep enough to be making calls on his behalf, and there was real risk where there hadn't been before. Acumen did what he'd been trained to do with numbers that don't add up. He started due diligence. He also read Andy's mail. Andy made a point of keeping everyone, enemies included, on his mailing lists. That's one of the few consistent business practices in the whole archive.

On December 29 Andy wrote him directly. "I bought all the rights to commercial," he said. "We already have pre-orders from 17 clubs!" And: "now that i sold xtagged my lost family is trying to get a hold of me."

Acumen's reply is a small masterpiece of the deadpan:

"Right, sounds awesome! Which clubs have pre-ordered? ... What's this about you suing City Weekly? :-)"

That's the straight man's whole method, and he'd use it for the next ten years. He doesn't argue. He asks for specifics: name the clubs. And then he adds the follow-up question that shows he's already heard about the other thing. The smiley face is how a man who measures web traffic for a living says *I'm going to enjoy watching you answer this.*

Andy never said which clubs.

The clubs had supposedly pre-ordered Buzz/Wiser, Andy's next big thing.

To understand Buzz/Wiser, you need to know that in the mid-1990s Anheuser-Busch had run a beloved series of Budweiser commercials starring talking frogs. Andy's origin story, told in a later video, began with a pitch to some Budweiser executives in Las Vegas. "You guys taught kids how to read," he says he told them. "I want to teach them responsibility." In Andy's version, a frog named Wiser "shoots his tongue out, wraps it around Buzz's

neck," and teaches the audience that buzzed driving is drunk driving. The drink itself was a vitamin-packed energy drink you'd have after a night out, which "guarantees you will not wake up with a hangover the next morning."

In December 2009, around the time Xtagged was supposedly sold, Andy made a video to launch the drink. He appears as an animated frog. The animation, according to the blog, was borrowed. "Hey everybody, only got 30 seconds, so listen up tight," the frog says. "Xtag.com has been sold. This is Andy." The new drink would be called Buzz/Wiser. "50% will be donated to Mothers Against Drunk Driving." Then, in a sort of benediction: "The people who bought xtag.com, very great people. They have very great expectations for xtag.com."

His December 27 email, which went to a model he'd recruited and was then forwarded to investors and family, was even more triumphant. It was headed "'Andy sold XTAGGED FOR MILLIONS' 'NOW HERES BUZZ/WISER OUR NEW DRINK'." It featured a Budweiser-frog parody with the slogan "BUZZ DRIVING IS DRUNK DRIVING!" It promised that "50% of profits goes to M.A.D.D." It said the frog commercial was "being considered for Superbowl commercial." Forwarding it to his uncle, one of the faithful, Andy added: "chris valdez we rich of karma now watch 2010!"

Here's what happened in 2010.

On March 31, Mothers Against Drunk Driving wrote to Andy about "the unlicensed use of the MADD name in advertisements for Buzz/Wiser." It was a polite, firm letter of the kind a national charity sends when its name turns up on a project it has never heard of. Andy forwarded it to his circle with a characteristic subject line: "look who daryl called." He was right. The most famous anti-drunk-driving organization in America had heard about Buzz/Wiser from the owner of a Utah nightlife website, and the next chapter explains why he picked up the phone.

Rebecca Dunn, who by then was deeply involved in Andy's affairs, had seen this coming. "I wake up at 2:00 a.m. every morning," she wrote him in December, "with a nightmare of your being sued by Budweizer." Andy's answer was that the names had nothing to do with Budweiser: "buzz for buzz driving and wiser for wiser mentor so really has nothing to do with budweiser." Then he added the line that pretty much sums up his relationship with intellectual property: "'MONEY' WHAT'S THAT."

The more embarrassing letter came later in 2010, from Europe. There was a real hangover-prevention drink on the market called Security Feel Better. Daryl Acumen's lawyer would later describe the Buzz/Wiser concept, website and all, as "merely a direct copy" of it, and he said its makers had sent Andy a "profanity-laced e-mail and cease and desist letter." A follow-up from a company representative was more measured. He wrote that "we do not wish to get involved into your private feud," mentioned that they were "actively involving federal and state law enforcement authorities," and thanked Andy for his "swift action regarding the removal of all mentions." Andy answered: "Dido, to you too sir."

New Belgium Brewing, whose logo had turned up on one of Andy's prop cans, sent a cease-and-desist of its own. By the end of 2010 Buzz/Wiser had drawn more legal correspondence than customers.

And that, in all its glory, was the drink. In the archive's thousands of pages there's no record of a production run, a distributor, a single retail sale, or a check made out to MADD. There's no case of Buzz/Wiser anywhere. What survives is one aluminum water bottle with a Buzz/Wiser sticker on it, which Andy displayed on camera like a museum curator showing off a Fabergé egg. "Notice how Andy keeps the water bottle in a protective case," the blog observed. "This is to protect the only example of this fake energy drink ever produced."

In one video, Andy holds it up and gives the most honest product description of his career:

"Here's the Buzz Wiser drink that doesn't exist."

He's being sarcastic. He's mocking the critics who said it wasn't real. But the sentence is still true, the camera recorded it, and today it's the best review Buzz/Wiser ever got.

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Then there was Mariah Carey.

On January 8, 2010, at 4:10 in the morning, an email arrived in Daryl Acumen's inbox from the Xtagged Gmail account. It was signed "Steve," and it was a sort of introduction. "This is Steve … Andys crazy," it said, "and i swear he wasnt drunk like Mrs Carey on tv." It linked to a YouTube channel called BUZZANDWISER.

The video it pointed to became one of the most famous artifacts of the Esquivel era. The blog later reposted it under the title "Andy Esquivel's Mariah Carey Video." In it, Andy is in a living room at night, waving what's supposed to be a can of the new energy drink and bouncing around, in the blog's words, "in a drunken stupor," in front of a big wall projection of Mariah Carey. The clip is a widely circulated YouTube video of the singer speaking at an awards event in Palm Springs.

"Okay everybody quiet, everybody quiet," Andy says. "I'm at a friend's house, the business partner's house that's really spoiled and has this big screen." He says he's "a very big, big fan of Mariah Carey," introduces himself as "Andy with xtag.com," and, before the audio dissolves into party noise, gets out the key line: "I just sold that, but we're launching our new product and I just wanted to be the first one to tell you, Mariah."

The blog took this apart the way a CSI tech takes apart a crime scene. The "big screen" was a laptop projector. There was aluminum foil taped to the wall where the image landed, positioned, the blog figured, to hide the YouTube credits that would have shown where the clip came from. And across Mariah Carey's face, faint but unmistakable, you could see the shadow of a ceiling fan.

The "spoiled business partner's house," it turned out, was Andy's mother's house, and Andy proved it himself. Sometime around the same period, he filmed a walk-through of the house for the internet. On the first floor he apologizes that "we have a realtor that does this for us, but he's on vacation because of Thanksgiving." Upstairs, apparently forgetting what he'd said downstairs, he opens a laptop and explains: "Again, my mom's laptop. This is my mom's house." Then, helpfully: "She's got Avon."

Somewhere in the corner of one frame, the blog noted, you could see his daughter's toy car. Hold on to that toy car. It's about to become a prototype.

❧

Acumen watched the Mariah Carey video. He'd been doing his homework quietly for about six weeks by then, and he was about to stop being quiet about it. What happened next turned a worried son into the most dedicated documentarian Andy Esquivel would ever have. It started with a reply that took about ten seconds to write.

"Dude, that's the stupidest thing I've ever seen in my life!" Acumen wrote. "Please don't waste my time with crap like that anymore. I'm very busy these days."

It's worth stopping to appreciate this. Nobody has ever reviewed an Andy Esquivel production more economically. There's no analysis or argument. He just reports what he saw, adds a personal request, and mentions his schedule. If Daryl Acumen had ever had a career as a film critic, this would have been his signature style.

"Steve K" did not take it well.

The reply, which Acumen and his mother would later attribute to Andy writing as Steve, came in a short version to Acumen and a fuller one that went to his mother and later onto the blog. It opens with an objection to his manners: "Dude my name is Steve as it

read at the bottom of your email." It complains about Utah: "know that i see your from UTAH, I need to no longer wounder why Andy left There!" It mentions in passing, as a threat or an inducement, that "Andy wants to buy party Utah." It explains the company's standards: "proper men do not sent emails with swear words, we are a family based company because of the safety aspect of site." Then it closes like this:

"P.S ASS-WISER Will be available soon near YOU! Its guaranteed to make you think of other people than yourself! ... Good Day Sir Ass-A-Lot! / Steve K co-owner of Xtagged and hopefully soon Buzz/Wiser!"

Read it twice. A family-based company that doesn't swear signs off by announcing a new product called Ass-Wiser and wishing its recipient a good day, Sir Ass-a-Lot. As the work of a co-owner of a company in the middle of a multimillion-dollar acquisition, it's unusual. As the work of the founder pretending to be his own co-owner, it makes perfect sense.

"After I received this ranting, crazy email from Andy pretending to be Steve Klemark," Acumen later wrote, "I knew I was dealing with a nut!"

He did what analysts do with an anomaly, only faster now, because this anomaly had his mother in it. Within a short time he found Ryion Butcher's blog, which said Andy had taken five thousand dollars from him. Acumen called him. He found the other gym investors and their stories. He started finding records. Then he made Butcher an offer. If he wanted more people to hear his story, Acumen had websites with plenty of readers, and Butcher was welcome to post it there.

Butcher took him up on it. A while later, a second, more polite version of the Steve K email showed up, labeled as revised "After speaking with Andy and your Mom." By then it was too late. The straight man had picked up the file.

❧

His mother, it turned out, had been in the middle of all this.

The day of the Mariah Carey email, Rebecca Dunn wrote to her son and signed it "Mom." She told him Andy "has not seen nor did he approve the Mariah video." He couldn't have, she explained, because "Andy has been in Dubai all week; he has caught a bad bug." The company, she added, "is suffering from early growing pain."

Andy wasn't in Dubai. The video had been shot in his mother's living room, under the ceiling fan, with the Avon. Dunn would later annotate her own email for the record, in capital letters: "ANDY LIED ABOUT BEING AT A CONFERENCE IN DUBAI." She'd also note, about the Steve K email that had supposedly been her introduction to the mysterious co-owner, "THIS OBVIOUSLY IS NOT STEVE'S WRITING." That came later, though. In January 2010 she believed him. She believed the conference in Dubai, the bad bug, and the growing pains. And she was about to become, by her own description, the chief executive officer of the whole operation.

A month after the Mariah video, in February 2010, Steve K sent an email to KSL's newsroom and others explaining a personnel matter. "My name is Steve and i own Karmacause.com for this reason we bought xtagged," it said. Then: "sadly we had to let go of Becky Dunn Daryl's mother ... since you paid for her hotel."

Acumen replied on February 16, and this one may be his finest work:

"Steve (...err, Andy), I find it really interesting that this week you're all butt-hurt that you had to 'let my mother go', but last week ... you didn't even know who she was."

Look at the parenthetical. (*...err, Andy*). It's the most efficient piece of investigative journalism in the archive. It's two words and an ellipsis, and it removes the mask. It doesn't argue or ask for proof. It just addresses the email to the man who wrote it.

The exchange then turned up in his mother's inbox, forwarded from the Xtagged account with a three-word note: "andy said to

send."

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So by early 2010 Xtagged had been sold, and Andy was still running it. It had new owners who wrote like Andy, a co-owner who signed off by calling people Sir Ass-a-Lot, and a CEO who'd been let go before she was officially hired. It had a new product, an energy drink with no energy in it, along with a charity partner that wanted its name back and a European rival that wanted its whole concept back. Its spokesman had danced for Mariah Carey under a ceiling fan.

Daryl Acumen would spend the next decade watching reports like these come in from the field: a car cover, a superhero, a sex app, a temple. Each time he'd ask the same question he'd asked about the Mariah Carey video, which was, more or less, *what is this?* And each time the answer would be the same.

It was the next thing. Then Andy did it again.

CHAPTER SIX

The Truth Is a Blowtorch

The phone call came from Allen Brady.

By early 2010, Ryion Butcher's story was up on one of Daryl Acumen's websites, and Andy Esquivel had found it, the way Andy found everything written about him. He searched his own name the way other people check the weather. His response was the one he'd give to every critic for the next decade: he was going to sue. He'd already threatened City Weekly, the Salt Lake alt-weekly, over something it had published. Now it was Acumen's turn.

Andy didn't make the call himself. Allen made it, and Andy was in the background, close enough to be heard. Allen explained, in the tone of a man reading from a card, that Andy considered the post defamatory and was prepared to take legal action.

Acumen's reply has been preserved only in his own memory, but he remembers it word for word, and nobody who has read his blog will doubt the transcript.

"Listen Allen, you tell that little bitch for me to take his threats and shove them up his ass. And you tell him that if I ever hear from him again, I'm going to lay his shit bare for the world to see and I'm going to make sure the world knows that Xtagged is a scam and that he is a con artist."

It's worth pausing on the structure of that sentence, because it's a contract. There's a condition, *if I ever hear from him again*, and a

remedy. Acumen wasn't promising to go after Andy. He was promising to go after Andy if Andy didn't leave him alone. All Andy had to do to avoid the next ten years was nothing.

Andy had never done nothing in his life. The threats kept coming, by email, under his own name and several others. So on February 23, 2010, at 4:56 in the afternoon, Daryl Acumen opened a new thread on the UtahRaves.com message board and kept his end of the deal.

❧

"One of his duped investors posted a message about him on my prototype UtahRocker.com website," the first post began, "and this moron has been threatening me ever since." Andy, he wrote, "seems obsessed with threatening to sue everybody from City Weekly on down." Then, almost in passing, the line that explains everything that came after:

"My mother (who has a soft spot for con artists) fell in with this guy a few years ago."

He attached a photo of Andy and signed off. Two hours later a user named Fail to Think posted the first reply: "This was a pretty good laugh. lol."

A little after seven, a user named Butcher showed up. "Xtagged.com is a scam!" Ryion wrote. "I was scammed out of five thousand bucks." Andy was claiming he'd sold the company, Ryion said, "but all he's done is registered it under a guy named steve, But he is still barking out the orders." He finished with a warning: "The people that he scamed are starting to haunt his punk ass!!"

That was the cast on day one: the straight man, the victim, and the crowd.

The crowd deserves an introduction, because it would be on stage for almost two years. UtahRaves was a forum for Utah's electronic-music scene. Its regulars were mostly young, mostly nocturnal, and almost entirely uninterested in securities law. Most

of them had never met Andy Esquivel and never would. Their first questions were the right ones. "What the heck is xtagged?" asked a user named Opaz. "Am i slow or something?" asked another.

Acumen explained. Xtagged, he wrote, was a social network built on license plates. It had supposedly been sold for somewhere between fifty million dollars and a billion to "Steve in Denver (Steve of course knows nothing about this)," and the proceeds were going to fix health care and launch an energy drink. Meanwhile the "last 1%" of the company had been sold to "at least a half dozen people (as young as 16)." He added a note for anyone tempted to assume he was exaggerating:

"What makes it even funnier is it's literally all TRUE!"

The forum took it from there. Over the next twenty-two months, the thread would run past eight hundred posts across dozens of pages. By November 2010 it had more than twelve thousand views, which made it, by a wide margin, the most-read document Xtagged ever produced. The regulars supplied grammar corrections, local sightings, watch-repair expertise, dictionary definitions, and a steady stream of one-liners. They were the Greek chorus, if the Greek chorus had been up all night and was mostly typing from phones.

Not all of their material can be reprinted in a book. A lot of it can.

"I'm so confused," wrote A.D. after one of Andy's early emails, "I'm not even sure if he's talking shit, I think he might be having a seizure."

"You write worse than a third grader," wrote Lil Meat.

A user named ripcord, noticing that Andy was threatening to sue everyone in sight, asked to be included. "Hey! I'm feeling left out," he wrote. "Could you please include me in on the lawsuite as well." Others followed. Being sued by Andy became, briefly, a status symbol on the board, like a backstage pass.

And when a regular named NuQ posted a parody of Andy, "channeling" his ghost, Mintberry Crunch wasn't fooled. "This

has gotta be a hoax," he wrote. "I understood every word."

❧

Andy fought back the only way he knew, which was to multiply.

The first reinforcement arrived two days in. It was an email informing Acumen that a private investigator named Zed had been "hired to blog the truth about your life." The next day Zed himself wrote back. He was replying to a text Acumen had sent Steve Klemark the week before, as a courtesy, with the name and number of the SEC attorney handling the case. "You are walking on a fine line sir," the private investigator warned, "and giving false information is a crime within itself ... you are not dealing with kids here." He signed it "Private Investigator / Co-owner Xtagged," which is not a combination of job titles you see often, and closed with a note: "P.S. These emails have been recorded as evidence."

Acumen's response was two short sentences, and they set the tone for the rest of the thread.

"Dude, Zed can't be a private investigator. He's too stupid!"

He'd already pointed out the pattern. "First it's Steve, then it's Dean, now it's Zed," he'd written the day before he posted Zed's email. "Whenever Andy gets called on his bullshit, he puts some other paper doll out in front to deflect the criticism!" The paper dolls would keep coming: Zed, Zeb (same doll, different spelling, sometimes in the same week), "Matt," "old girl," a user called MRDDD, and a rotating cast of anonymous commenters who all happened to make the same grammatical mistakes. When the "old girl" account posted a smear and a threat to call Acumen's wife, he looked up where the post had come from. It came from a Comcast address in Colorado. "I've never dated anybody in Colorado," he noted.

Andy had a nickname for him by then. He called him Mr. DDD, or Mr. Dee Dee Dee, and used it so often that it became the

thread's unofficial title. A nickname only works as an insult if the target minds.

❧

The comedy was real, but it's easy to miss that the man running the thread wasn't doing it for laughs. He told the forum so, three weeks in, in the middle of an argument about Andy's sock puppets.

"I'm sick and tired of watching my mother go down the toilet with Scumbags!" he wrote. The last one, he explained, was "halfway through the ten year sentence I made sure he showed up for." That was Paul, the man who'd forged Rebecca Dunn's checks. Andy was the sequel. Then he wrote the line that could stand as the motto for everything he did over the following decade:

"The truth is a BLOWTORCH and all the stories in the world won't blow it out."

This was the part the crowd didn't see, mostly because Acumen didn't put it in front of them. His mother had been estranged from him since March 2008. She was now, by her own account, the chief executive officer of Andy's companies. She was defending Andy to reporters, ghostwriting letters for him, and fielding emails from a private investigator who didn't exist. There was no conversation he could have with her that would get her out. He'd tried. She thought Andy was a good man, and she thought her son was jealous.

What he could do was offer proof. If Andy Esquivel could be shown, publicly and permanently, to be a fraud, and if a court could be made to say so, she'd have to believe it. Possibly nothing less would do. That was the theory behind the thread. Everything else, the jokes and the screenshots and the ripcords, was how he kept himself going while the theory played out.

It's a strange way to rescue someone, and it was going to take a lot longer than he thought.

❧

There was another thing Acumen kept from the crowd, and it was the hardest one to keep.

Andy had worked out early that the surest way to hurt Daryl Acumen was through his family, and the surest way into his family was his mother. Rebecca Dunn had told Andy that her son's wife couldn't have children. Andy used it. In emails and posts, and sometimes with Dunn joining in, Shirley's supposed infertility became one more thing to throw at her husband, from two people who had no business discussing it.

What they didn't know was that it wasn't true anymore. Shirley had been pregnant since before the thread started. The Acumens had kept it from his mother, and from anyone who might tell her, for exactly this reason. So when the subject came up, Acumen played along. In the spring of 2010 he told the forum that he and his wife couldn't have kids and that he'd never speak to his mother again, then signed off with "nice job, Xtagged!" He was letting a con man believe his own bad information. Andy, of all people, should have recognized the technique.

On July 7, 2010, their son was born. The next day Acumen posted on the thread that he was officially signing off, and why: "Yesterday my wife gave birth to my son." He'd hoped, he wrote, that the thread would help his mother "see the light of day before her first and ONLY grandchild was born, but alas she's too far gone." She evidently wasn't reading the thread. She found out she was a grandmother a few days later, secondhand, from one of Daryl's aunts.

He came back to the thread, of course. He always did. But it's worth knowing, when you read the jokes from that summer, that the man telling them had a newborn at home whom his own mother had to hear about from an aunt, because she was taking Andy's calls.

❧

In the meantime, he did what he was good at. He measured.

By then he'd left Omniture for Hewlett-Packard, a move he made the same month as the Thanksgiving call. At HP he was a senior manager of digital analytics, running search analytics for the whole company. He didn't advertise this on the forum, at least not at first, but he did mention it once, when Andy's search results started to suffer. "That's what happens," he wrote, "when you make enemies with the Manager of Glogal Search Analytics for the 9th largest corporation in America...you get burned on GOOGLE!!!" Andy, forwarding one of Acumen's emails to his team that spring, asked whether he worked at HP. It was one of the few things Andy ever guessed right.

On March 1, Acumen ran Andy's websites through a site-valuation service called WebsiteOutlook, the kind of tool that estimates what a domain is worth from its traffic. Xtagged.com came back at nine hundred forty-six dollars. A similar domain, X-TAGGED.COM, came back at forty-six hundred. Acumen went to look at the more valuable one and reported back to the forum.

"(...drum-roll please) X-TAGGED.COM is a PORN SEARCH ENGINE!!!"

So the billion-dollar company was worth less than a pornography site with a hyphen. That's a hard thing to argue with, and Andy didn't try. Instead he posted a YouTube video purporting to show that Acumen had deleted his comments from the thread. The video showed page one. Andy's posts were on page four.

"If you look closely you'll notice that to prove I deleted posts, he shows you page 1," Acumen wrote. "I think he's dyslexic."

Two weeks later Acumen went into what he called "GEEK MODE" and did the arithmetic in public. He ran the traffic numbers for his own sites, multiplied by advertising rates, and laid out what real internet companies sold for. He used the one he knew best. Omniture, the company where he'd been a consultant, had just been bought by Adobe for $1.8 billion. It had more than a

thousand employees, a mature product, and paying customers with household names. Xtagged, which Andy said was worth about as much, had none of those things. It wasn't a comparison Andy could win, and Acumen would make it again, more than a year later, at a dining room table in front of a woman who'd lost fifty thousand dollars.

❧

Then he started making phone calls.

The calls are the part of the thread that a reader skimming for jokes might skip, and they're the part that mattered most. Andy had covered his websites with the logos of real organizations. Acumen went down the list and asked each one whether it knew.

eBay emailed back to say it had no affiliation with a site called eBayTAGGED.com.

Then there was the drink. Andy's Buzz/Wiser materials said half the profits would go to Mothers Against Drunk Driving, and the MADD name and logo were all over them. The Buzz/Wiser can in Andy's photos (a different prop from the water bottle he later kept in a case) turned out, on inspection, to be a Monster energy drink can with a sticker on it. It also carried the logo of New Belgium Brewing, which Andy appeared to have lifted from a Google image search, and the words "Alcohol Content 5.4%."

Read that again. Andy was advertising an alcoholic energy drink, with a beer company's logo on the can, as endorsed by Mothers Against Drunk Driving.

So of course Acumen called MADD. A MADD Colorado staffer named Emily Tompkins wrote back at the end of March, then spoke with him on the phone, then sent an official statement, which he posted. "MADD is disturbed," it said, "by the way Andy Esquivel shamelessly uses the MADD name to fraudulently enhance the legitimacy of the Buzz-Wiser product." The next day Andy forwarded MADD's letter to his circle under the subject line "look who daryl called."

He wasn't wrong. Daryl had called.

Acumen wrote to New Belgium too. A brand marketer there named Andi wrote back in May, gave Andy and Steve two weeks to comply, and asked Acumen a question that he might have had printed on a business card:

"We love when consumers look out for our brand! ... are you an admin by day and an intellectual property vigilante by night?"

She offered him a T-shirt. The Andi-versus-Andy coincidence was not lost on the forum.

That spring, after Andy announced the Wiser electronic cigarette, Acumen tracked down the supplier. Andy, it turned out, had approached the supplier about an order of two hundred fifty thousand units, then fifty thousand, then six demonstration kits, paid for with money he borrowed from his own mother. The "Wiser" packaging was a printed insert taped to the supplier's own boxes. The supplier's assessment of Andy, as Acumen relayed it, was that he had "the balls of a moose!"

Acumen also checked with the clubs whose names turned up in Andy's pitches. Skybar, whose site Acumen hosted, and Club Allure both said they'd never given Andy their mailing lists. And on April 1, 2010, after finding an "XTAGGED LLC OWNERS" chart on one of Andy's sites and confirming that no such company was registered in Colorado or Utah, Acumen reserved the name with the Colorado Secretary of State himself. "Steve," he wrote, "WHAT THE FUCK DID YOU BUY?"

He announced the new management. Ryion would be president. Andy could stay on in sales. "Andy, you can be 'Sales Manager,' but I'm going to need you to reel it in a little bit!" Then, to the actual CEO of Andy's operation, the woman who'd been estranged from him since 2008: "Mom, you're fired!"

It got a laugh. It was also, if you knew the backstory, about the saddest joke in the thread.

❧

There was a running gag on the board that nobody planned. Every few weeks, Acumen announced he was done.

"I think we're done," he wrote on March 27. "Ryion, sorry we couldn't get your money back."

"It's over," he wrote on April 11.

"I think I'm done," he wrote on May 1. "It's been a blast!"

"I promised my wife I wouldn't post here anymore," he wrote on May 6. "Peace out."

"This horse has been beat enough," he wrote on May 12.

"Some horses refuse to die," he wrote on May 13.

Each time, within a day or two, Andy would send another email, or post another video, or invent another employee, and Acumen would be back. On May 20: "I think Andy is pretty much over. He's clearly lost it." In September: "I for one am done." In October: "It's officially over… Peace!" In November, after a summer of car covers and e-cigarettes, he signed off twice in one afternoon: "I think that just about wraps this up," and, half an hour later, "See you in court! :D"

It's a classic straight-man routine. The man keeps trying to leave the scene, and the scene won't let him go. The only reason it never felt like a gag to Acumen was that he knew exactly what was keeping him there. Andy wasn't writing only to him. Andy was writing to his mother, every day. As long as that was true, the thread couldn't really end.

His wife, for the record, wanted it to. She'd thought Andy was full of crap since the snowstorm in 2007, and that spring she had better things to think about.

The forum got Andy's side of the story too, at length, because Andy couldn't stay away from it.

He threatened, mostly. His YouTube complaint in July 2010 named Acumen as a defendant in a lawsuit that was going to be filed "the following Monday." It wasn't. His emails promised that

Acumen would see him in court so often that Acumen started answering in kind. "Is it just me," he asked the board, "or does Andy sound like a parrot? 'SEE YOU IN COURT, SEE YOU IN COURT, ...SQUAWK'"

Two months later, the lawyer Acumen had hired, Adam Platt, sent Andy a letter, which this book will come back to. Acumen posted it.

And there were the other emails, the ones that didn't threaten lawsuits. In July 2010 one of them went too far, and Acumen and his wife went to the police in Utah County. The harassment charge that followed would be the first criminal charge to come out of the feud. Andy didn't stop emailing Acumen until a court told him to.

Through all of it, the thread kept asking a question Andy never answered. Ryion asked it first. "Andy sill has not taken me to court," he wrote in March 2010, "I'm still waiting!" Acumen picked it up, and so did the regulars, every time Andy announced another lawsuit. *Where's the case number?* Andy had threatened federal court for a year and a half. There was never a case number.

When a case number finally turned up in the thread, it was for the case against him.

❧

That case started as a plan, and the plan was hatched in the thread's back rooms, in phone calls and emails between Daryl Acumen and the three men Andy had taken money from in the gyms of Davis County.

Kyle Cluff, Chris Engelbrecht, and Ryion Butcher had each tried, separately, to get their money back. Chris had sent a certified letter, which came back undeliverable. Kyle had sent Andy an email titled "I want my money" and gotten back, at 2:57 in the morning, a reply telling him he'd "end up just like ryion" and that he'd "see you in court." Ryion had posted on the internet, which was how all of this started. None of it had worked. Andy had an answer for everything, and the answer was always that the money

was coming as soon as the sale closed, or the lawsuit was over, or the critics went away.

Acumen's view was that waiting for Andy to pay was a losing strategy, because Andy had never paid anybody for anything. If the three of them wanted their money, they'd have to make paying them back the cheapest thing left for Andy to do. That meant getting the State of Utah involved. It meant, to start with, the victims pressing charges.

So they did. Reports went to the Bountiful police. In April and May 2010, they talked to a lawyer about a joint civil suit, and Ryion asked Andy for his address so they could have him served. (Andy didn't provide one.) The offer stayed open the whole time, and it was simple: pay them back and we'll go away. Andy didn't take it. Ryion, who understood Andy better than Andy's remaining believers did, figured out why, though he didn't put it into words until the fall of 2011: "He needs us!" The thread was Andy's explanation for every deal that hadn't closed. Without his critics, he'd just be a man with no product.

On September 10, 2010, Acumen reported that "the three securities fraud cases in Bountiful have all been passed up to the State." A couple of days later the Bountiful detective confirmed it, and said Kyle, Chris, and Ryion would be contacted. On September 21, Ryion sat down with an investigator at the Utah Division of Securities and told him the story he'd been telling online for a year.

From there it was bureaucracy, which is to say it was slow and it didn't forget. It would be ten more months before anyone was charged. In the meantime the thread rolled on, with car covers and toy Mustangs and a Wiser Technology LLC that, it turned out, nobody had ever registered either. On November 5, 2010, Acumen registered it himself and offered Ryion the corner office. "Ryion, we are now the proud legal owners of Wiser Technology, LLC," he wrote. "Would you like to replace my mother as CEO?"

"I accept!" Ryion replied. "I would be happy to be the new CEO of Wiser Technology, LLC. I will make sure it is run honestly and only hire people with brains."

It's worth saying plainly what the thread was, now that it's mostly gone from the internet.

It was a message board on a website about raves, run by a web analyst in his spare time. It was profane, it was often juvenile, and parts of it were cruel in ways this book has chosen not to repeat. A lot of it was a young crowd making fun of a man who couldn't spell. Andy was right about that much.

It was also, for almost two years, the only place where anyone was keeping track. It was where the victims found each other. It was where MADD's statement, New Belgium's email, the supplier's story, and the Colorado name reservations were all posted, with dates. It was where the plan to take the case to the State was made, and where the State's progress was reported to the people who'd been waiting for it. Nobody at a newspaper or a television station was covering Xtagged in 2010. A thread on UtahRaves.com was.

Steve Klemark, of all people, saw what it was going to be. In September 2010, in the middle of an argument on another forum, the man Andy had named as the buyer of Xtagged wrote a line that might have been written for the cover of this book.

"Man, this is going to make one hell of a story one day. I promise all you guys, one day we will all look back at this and laugh."

He was right about the story. The laughing took a while.

CHAPTER SEVEN

Ms. CEO

Rebecca Dunn was sixty-four years old in 2010. She'd spent forty years in management and had a résumé to show for it. She knew about budgets and sales commissions, the paperwork that turns an idea into a company, and how a nonprofit has to be legally separate from the business it supports. She'd also been scammed once before, by Paul, the boyfriend who'd forged her checks. Afterward she wrote a short story about how easy a target seniors are for scam artists.

Andy Esquivel came back into her life in earnest around Thanksgiving 2009. She knew the date because she wrote it down. Their working relationship had started earlier, in 2008, during what she called her "rapid departure from Utah." She called Andy on her way out of town, and he sent her money. It was three hundred and fifty dollars, partial payment for some work, with three hundred more promised. She remembered it as the money that let her leave. "He was like a second son," she wrote. She credited him, in so many words, with saving her life.

This is how it works. Remember it the next time you wonder how anyone could fall for a man selling a dating app with a Michael Jordan offer and a Donald Trump buyout. Rebecca Dunn didn't fall for Xtagged. She fell for the man who'd been kind to her once, at a moment when she badly needed it. Xtagged was what she agreed to help him with.

❧

Her son had introduced them, and her son had walked away. By early 2010 he was back, on the other side. He was running a public thread about Andy on his own message board, and the point of it, though he rarely said so out loud, was to get his mother out. Rebecca Dunn went the other way. For about two months in the spring of 2010, by her own account, she served as chief executive officer of Andy's companies. She worked from North Carolina, essentially unpaid, and in her whole time with him she met Andy face to face only once, for "a period of about three hours or less."

"Since I cannot see you," she'd write to him later, "I have to listen with my ears."

She listened, and she worked. She drafted a nondisclosure agreement and designed a "straw man" organizational chart. She wrote budgets: startup, quarterly expense, capital. She produced sales projections and a risk analysis. She wrote job descriptions, salary scales, and a sales commission plan. She recruited a sales team on both coasts and a semi-retired development team. She set up a CPA, QuickBooks, and a payroll firm. She commissioned a warehousing study and put together a guide to Asian business etiquette for dealing with suppliers in China. She drew up a plan for Andy to get his GED and then a degree.

When she brought up a business plan, Andy "questioned my authority and said that it wasn't needed."

She'd pictured, she admitted, working alongside "high level engineers that had graduated from Ivy League colleges." What she actually had was Andy, plus a cast of people she'd mostly never meet or talk to, some of whom she'd come to believe didn't exist.

Her two top priorities as CEO were telling. The first was to "convince Andy to stop blogging." The second was to "obtain a corporate lawyer." She'd fail at both, and the second was the one that mattered more.

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In April 2010 she sent Andy a memo about trademarks. It's one of the most sensible documents in the archive, and it reads like a smoke alarm going off in an empty house.

"You need to run this by the corporate lawyer and do damage control," she wrote. A member of the team, a technically skilled man named Dustin, had found that "Xtagged LLC was not registered." The Karma Cause charity concept, she pointed out, "has Australia all over it," which was literally true, since the name, logo, and idea appeared to come from an Australian company called Karma Currency. And all those logos on the website—the Nike swoosh, Nissan, UPS, the frog, MADD? "It's not enough to have verbal permission."

Then she softened it, the way a mother would. "You are fairly new at this, so don't beat yourself up ... Love you. Please call when you wake up."

That same month, her son wrote to the email address of a private investigator named "Zed," who'd recently started harassing him on Andy's behalf, and mentioned in passing that "Xtagged LLC doesn't actually exist...yet!" Readers of the thread already knew why. He'd gone to the Colorado Secretary of State and reserved the name himself, then announced on the forum that his mother, the CEO, was fired.

Nearly two years later, sitting in the witness box at Andy's preliminary hearing, a state investigator testified that the only official record of "X-Tagged" he'd found in Colorado was a name reservation, held from April 1 to July 30, 2010, by one "Darrel Acumen." Andy's lawyer asked, with some interest, whether the name on it was Andy Esquivel's.

It wasn't. The only person who'd ever officially claimed the name Xtagged in Colorado was the man trying to prove it didn't exist. Later, when Acumen discovered that Andy had never registered "Wiser Technology LLC" either, he e-filed that name

too. Andy then claimed, with what you have to admire as a perfect sense of timing, that he had *let* Daryl do it.

❧

Dunn's resignations started almost as soon as her tenure did.

The first serious crack was a trip to Las Vegas. In April or May 2010 she set up meetings with an e-cigarette vendor, a man she called Sam of Vegas. Andy skipped the first meetings. When he finally did meet Sam, he called her to say how impressed he was, then told her he'd booked her a flight to Las Vegas to meet everyone. She got up at four in the morning and drove an hour to the airport. "There were no tickets," she wrote. "Andy never purchased the ticket."

A little later he took over Sam's supplier, a company called Green Smoke, whose name Dunn had passed along to him. Then, running short on stock for a planned Fourth of July launch, he had "his uncle and mom" order product from Sam, after which he accused Sam of misusing his mother's credit card.

When Dunn asked Steve Klemark about it, Steve said something that should've ended her CEO career on the spot. "Beckie, I was not in Las Vegas," she quoted him. "I sent Andy to Vegas. He had become so paranoid that he was making himself sick." Whatever the story was, it wasn't the one she'd been told. "The entire Ameristar story was false," she concluded.

She resigned on May 3 and came back. That was the pattern. Every time she tried to leave, as she later put it, "he would use some mechanism to convince me to stay." The mechanisms were sometimes flattering ("Becky your are the strength of all my faith") and sometimes financial ("Beckie, you are going to be so taken care of and you will not have to worry about anything for the rest of your life"). Sometimes they were grand and sentimental. In a September email Andy promised that "as a Royal knight i will hand you your name back," and predicted that with

the two of them "molding" some unnamed young protégé, "at 28 beck by 40 we will have JFK back!"

Sometimes the mechanism was an emergency. In July, right after the e-cigarette launch, Andy called her in the middle of a crisis. "A top executive from Google was on the other line," she recounted. "'What should I say Beckie.'"

"You mean you have Google on hold?" she asked.

You can hear the tone she probably used. It's her son's tone too, the family deadpan. Google had hung up, Andy reported, then called back and wanted her flown to Denver. Then Fox News called. "I never heard anything else about these meetings," she wrote.

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The spring of 2010 is also when the company's staff started multiplying in strange ways.

In February, Andy announced to Dunn that he'd "hired zed to full time blog against daryl every day from here on!" and "gave him 1/4 % of buzzwiser." Soon an email arrived from an account called GOTINFO, headed "Zed P.I." It said Zed had been "hired by Mr. Klemeck and the new owners of xtagged to find out how many investors xtagged had," and repeated the warning Chapter Six quoted: "you are not dealing with kids here." Andy forwarded it to Dunn with a gushing note: "wow wow you are the greatest becky! After reading this i got chills just from your words!"

From your words. Dunn didn't catch it at the time. Some of the language in the private investigator's threat to her son appears to have come from a letter she'd drafted for Andy, which she later said "was meant for Andy's, his mom, Steve, and the lawyer's eyes only." Without knowing it, she'd helped write the voice of the detective who was harassing her own child.

The detective's name kept changing, Zed in one email and Zeb in another, which an actual detective might have noticed. When

Acumen pointed out that impersonating a private investigator is a crime in Colorado, Zed answered with abuse.

In May, the conflict between mother and son came to a head, and the archive preserves it in their own words. On May 19, 2010, Dunn wrote to her son defending the man she'd taken on as a second son:

"Andy didn't scam you, Daryl ... Andy did not scam hundreds of investors and even if he had, what is it to you?"

"Zeb is real Daryl ... His email uses Zed."

"Daryl, Andy is a good man!!!!"

Acumen answered as the straight man does when someone he loves asks him to accept the unacceptable. He laid out the facts. The SEC, he wrote, "would pursue legal action against anyone who helped perpetuate the Xtagged scam." Then: "Do you really want to go to jail at this point in your life?"

The next day, after another round of messages from Zeb that this book won't repeat, he wrote her a line that no family should ever have to put on paper:

"Forget I exist please. As far as I'm concerned, you're already dead."

That was May 20, 2010. That same day she wrote to Andy and Steve as a CEO, and as a mother too. "Private investigators DO NOT send out any correspondence on behalf of the company," she told them. "If this person commits suicide, would you want your names to show up in a letter of this nature?" As for the insults the team had been posting, including the nickname Andy had given her son, blogs containing "Mr. DeeDeeDee" and "You are going down dude," she wrote, "have no place in a professional organization." She wrote to Zeb directly: "what were you inhaling when you created this document?" and "DON'T USE MY NAME OR ANY OF MY PERSONAL LETTERS."

Two days later, on May 22, she sent her son a letter with the subject line "Final Warning."

It announced a reorganization. Daryl's uncle, Joseph Vann Dunn, would now "head up all of our operations," while she and Andy focused on "other ventures until all pending matters are settled in court." "Trust me," she wrote, "with the evidence that I have seen, you will not win." The rest was personal, and this book won't repeat it. It ended with an ultimatum: ten days "to get your act together and clean up this mess," or she would send the letter, along with every blog post and email, to his employer.

(Uncle Joe had run companies before. In the 1980s he headed a firm called Azonic Technology, which made equipment for etching and cleaning silicon wafers. In June 1992, *Computerworld* reported that police were seeking Joseph Van Dunn, 41, the former president of a San Jose company called Treva Communications, on a $1 million warrant "for the alleged theft of trade secrets and conspiracy." Treva said it had found out at a trade show, when it discovered its software being sold without its knowledge. In 1996 and 1997 he was the defendant in felony cases in Santa Clara County, numbers C9613953 and 198109. By 2002 he was listed in an annual report to the Securities and Exchange Commission as chairman, CEO, president, and chief financial officer of a company called CITA Biomedical, all at once. The same filing says he "graduated from Falls College in Atlanta, Georgia in 1970 with a degree in data processing," when he was nineteen. This book could find no record of a Falls College in Atlanta.)

On May 26, four days later, she forwarded it to Andy. In February 2012, two months after xtagged.co went up, he scanned all six pages and posted them on a separate blog titled "Final Warning Rebecca Dunn."

The ten days passed. Acumen kept his job, and he kept the thread.

On May 24, Zed signed off for good. "I will no longer be working on Xtagged, it has been SOLD!" (The company had now been sold at least three times since Christmas.) "I am part owner of Buzz/wiser." He explained there were "Seven promissory note

holders and seven percentage holders of xtagged most of % holders were Andys family." He offered a mysterious confession: "P.s my Name is not Zed we have been using Daryl And Ryion as Ginny pigs." And he closed with a wink: "Becky please forgive me ... Ms CEO;>)"

Earlier that month Andy, under his own name, had written Dunn that "contracts are signed." Four days later he mass-emailed: "Congrats to all who helped Buzz/Wiser thats why you got paid! spend it wisely LOL." He suggested that one of them should get a personalized plate that read GOTPAID. He also mentioned, almost in passing: "Sorry i only had Family investors on this trip."

The "contracts are signed" note to Dunn had ended: "Love you Andy the Scammer! LOL."

That's how he signed it.

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She quit again in August 2010, this time over something small enough to be the real reason. Andy had agreed to cover her phone, DSL, and internet bills while she worked for him, and he didn't. On Labor Day she was told the company had been sold, again, and that a lawyer would call her about "my percentage and the payout."

"The phone call never occurred," she wrote.

That fall, Andy sent her to a Western Union office to "troubleshoot" a wire to the Chinese e-cigarette vendor, which turned out to have gone through fine. Then he called her in a panic. "He was just about to finalize a $250,000 deal and the investor saw all of this stuff on Scam.com." He was meeting the next day, he said, with Steve and the lawyers for Ted Haggard, the disgraced Colorado megachurch pastor. "Albert told me to fire you."

Albert was supposedly a California lawyer who'd advised Andy that he didn't need to track expenses and that he should

keep blogging. Dunn eventually mentioned to Andy that she didn't even know Albert's last name. "The following week," she wrote, "Albert@wiserlegalteam.com was created."

The Scam.com episode taught her something about Andy's actual skills. In under two minutes, she watched him figure out that "he could manipulate the site by creating a username of Scam.com1," so he could post as what looked like the forum itself. "I had not seen any signs of a genius in Andy," she wrote dryly, until then. He read her a prepared statement over the phone. She said "That's Correct," and "the next thing I knew, it was in an Utube video."

Afterward, Andy told her he'd turned down Ted Haggard's lawyers, who "wanted $1M for all of Wiser Technology." He added a detail about his loyal co-owner Steve Klemark. Steve, Andy said, had been "upset when told that he would only get one percent of the company."

Andy promised his investors one percent for five thousand dollars. He promised his co-owner one percent for everything.

❧

One of the clearest clues to who was really writing as Steve was a LinkedIn notification.

In September 2010 she got one of those automated emails: "Steve R Klemark III has recommended you." The recommendation was glowing. "It was truly an honor to work directly under Mrs. Dunn (I was CIO, she was CEO)," it said. She had "supervised the merger that formed Wiser Technology with intelligence, grace and perfection," and the last line read, "don't think of offering her a job. She's ours!"

At the bottom of the email, in LinkedIn's standard small print, was the account it came from: "sent to you by Steve R Klemark III (utxpatrol@gmail.com)."

Utxpatrol was Andy's address. It had been Andy's address for years, under his own name, on his own emails and in the

Bountiful court file. Its Yahoo twin was where Daryl's lawyer had sent him a formal letter. The man who'd praised her grace and perfection was Andy, recommending her under the name of a real Denver police IT employee whose LinkedIn profile, as far as she could tell, Andy was operating.

"Steve," she'd later write to the real Steve Klemark, "it took me a while to believe that you were real."

In the fall of 2010, Allen Brady, visiting Denver "since his mom owned 10 percent of Xtagged," told her, she wrote, that Andy was using marijuana heavily. She wrote Andy a long letter titled "I Value Your Friendship." She told him, "You tend to hurt or destroy others before they can hurt or destroy you," and she quoted him describing himself on the phone: "I talk real fast, Beckie. I can't stop talking. I giggle." She asked him to "Stop with the blogs and the Utube videos." She told him what she kept hearing from him: "You don't have any role in this company. Just do as I say."

Andy's response was to blind-copy her, deliberately, she believed, on a document addressed to someone else. It was a cruel note about her son's marriage, which she captioned "SIMPLY TO BE MEAN." Around the same time a team email went out under the names "Andy Esquivel – Acting CEO / Steve Klemark – CIO / Alan Brady – Co-Owner," announcing that "Rebecca Dunn has temporarily stepped down ... due to extreme stress and family issues."

"I HAD ACTUALLY QUIT IN AUGUST 2010," she noted in the margin.

Her total compensation for Xtagged and Wiser Technology, over the whole relationship, came to "less than $1,000."

❧

The last push came in the summer of 2011. In a voicemail in July, Andy told her he was finishing a documentary "for the Sundance Film Festival" that was "financed in part by Robert Redford," and

that it would contain "damaging data on Daryl, Daryl's father and I." "I am tired of protecting you guys," he said.

That was the end. In June she'd already started forwarding emails out of the Wiser account to her personal Gmail, dozens of them, from 2010 and 2011. In July she wrote to the real Steve Klemark, at his work address, explaining what she now believed: Zeb the investigator, Gary the bus driver, and a homeless person who'd written a thank-you note for "Karma Credits" were all inventions. "When I found out that he had made up Zeb the investigator, the homeless person, and Gary the busman," she wrote, "there was no way I would allow myself to appear in court unless I was willing to perjure myself."

She didn't get a reply.

Then she wrote a document that she said started as "a paragraph response" to one of Andy's calls and turned into "what will eventually become a book." She called it "The Nature of Blogs, the Social Media and the Lives They Continue to Destroy." It runs more than a hundred thousand characters. It's furious and generous by turns. She blames Andy and also blames herself: "more than Andy shared in the blame and I also had to take a closer look at myself." In a companion document she describes the one percent rule. Victims stay, she explains, because they cling to "a one percent probability that the scam artist was telling the truth."

"I felt early on that Andy was a scam," she wrote. "However, I was so caught up in the role he played in saving my life that I was willing to overlook his shortcomings."

In the same essay she gives the fairest verdict anyone in the archive ever gave on Andy's actual idea, and coming from her it's heartbreaking. "The Xtagged concept was a brilliant one," she wrote. "With the right team, Xtagged could have been a billion dollar corporation." In the very next breath she noted that she'd never been convinced Xtagged had "any more than a few hundred

users," and that Andy had been "driving around with his mom looking for various car tag names" to put on the site.

She sent everything to her son, who passed it on to the State's investigator. With it, on August 8, 2011, came a short cover note. "I basically stopped communicating with Andy last year," she told him, "and then realized that I had to expose him." Andy was saying he was preparing a documentary from conversations he'd recorded, and she wanted to get her side out first. Then: "Daryl, we used to be so close and we have caused each other so much pain. I doubt seriously if I will ever see you again and I wonder if any of this was worth it." And finally: "I hope that some day you will find it in your heart to forgive me. … I love you. Mom"

Her son answered four days later. He wasn't ready.

"First of all there is no documentary," he wrote. "This is his 4th claim about some stupid documentary and you can rest assured that it's just as fake as the last three." Then he answered her question. "No this Andy Esquivel charade was not worth it!" As a "seasoned businesswoman" and the "CEO" of Andy's companies, he wrote, she might have done a little basic research and asked two simple questions: "do any of these 'companies' have a business license" or "do any of these 'companies' even legally exist?"

He told her what it had cost. "We filed felony harassment charges over a year ago because of the constant threats to my family," he wrote. (The charge was actually a misdemeanor.) "It was my hope that exposing this nutcase would make him go away, but unfortunately it only inspired him to intensify his efforts. Needless to say, I'm beyond angry with you over this situation and no I don't think I'll ever get over it."

He did find one good thing to report. Through all the digging, they'd managed to get Andy served with paternity and child support papers, with help from the mother of his two older children, who'd traded background information for the promise of

the first chance to serve him. “The amount is small,” he wrote, “… but it’s something.”

He ended with an ultimatum that was also, if you read it twice, a plea. “Nothing would make me happier than to see you get better,” he wrote. “If you ever gave a damn about me then please talk to someone and get help! If you can’t even do that for your family, then I don’t think there’s any point in ever hearing from you again.”

It’s the lowest point in the archive between the two of them. Both of them believed, that August, that they would never see each other again. Both of them turned out to be wrong.

❧

There’s one more line in Rebecca Dunn’s papers that a reader of this book ought to know about. In her letter to Steve Klemark, explaining why she’d kept such careful records of everything Andy said and did, she gave two reasons. The first was obvious: “I had been scammed previously.” The second was not.

“Andy asked me to maintain a record,” she wrote, “because he felt that his life would make a good book or movie.”

So here it is, Andy.

CHAPTER EIGHT

The Showroom

A guided tour of the Wiser Technology collection, 2009–2012. Please don't touch the exhibits. Some of them are holding the building together.

❧

Most technology companies keep a glass case in the lobby with the products that made them famous. Wiser Technology never had a lobby, or a front desk, or an address that wasn't somebody's mother's house or an attic in Denver. It did have products, though, or at least it had a lot of videos of products. Between 2009 and 2012 Andy Esquivel announced so many inventions under the Wiser name that even his own team couldn't keep them straight. In one email, the name "Wiser" got attached to e-cigarettes, video glasses, a tablet computer, a car cover, an energy drink, a water brand, a phone, a bicycle helmet, an airport app, a no-texting-while-driving app, and, briefly and memorably, a marijuana product called Wiserjuana.

Rebecca Dunn, the company's CEO for a couple of months in 2010, summed up the catalog in one sentence: "I haven't seen any finished products."

That's not entirely fair. There were products. They just weren't, strictly speaking, *his*.

Please follow the guide.

❧

Exhibit 1: The Wiser Car Cover

We start with the masterpiece.

Like a lot of great ideas, the Wiser Car Cover came from somebody else, in this case Allen Brady. Denver gets hailstorms, hail dents cars, and Allen's idea was a car cover that would inflate using air from the car's own tires, creating a protective bubble. On the blog, Daryl Acumen did the engineering review the idea deserved. The cover protects your paint by deflating your tires, he noted, which "reflects misplaced priorities that only he and Andy Esquivel could possibly share."

Andy loved it. He built a prototype, and the prototype is the reason this exhibit is in the collection at all.

He made it from bubble wrap and orange rope and demonstrated it on his daughter's toy pedal car, a little plastic Mustang. In the video he explains each feature with the seriousness of a NASA engineer briefing a launch crew. "The gold rope represents the air that flows through the chamber," he says. It attaches with suction cups. It doesn't need a pump, because "you literally extract out the hose and it pumps into your tire." There's a quick-release valve that empties the whole thing in "like three seconds." It protects against "keying, from anything you can think of, but mostly hail damage."

The blog called it "a classic" among "Andy Esquivel [video] connoisseurs," which is accurate. Look at the craftsmanship. That's not just bubble wrap. That's bubble wrap with a *rope in it*.

After the toy-car video, the internet laughed for a while and Andy went quiet. Then, by the blog's account, he had a breakthrough. While eating at a Burger King in Colorado, he spotted a car in the parking lot wrapped head to toe in a black, quilted cover. It was a prototype 2012 Hyundai Veloster on a lunch break from high-altitude testing, and it was wearing the kind of anti-spy camouflage automakers put on unreleased models to

keep photographers from getting a look at them. Andy photographed it. The photo went up on the Wiser Technology website labeled "Wiser Car Cover."

Of course, the automotive press had been photographing camouflaged Velosters for months, and soon pictures of identically wrapped Velosters, clearly labeled as Velosters, were posted beside his on anti-scam forums. A normal person would've taken the photo down. Andy did the opposite. He explained that the car-cover industry had been making covers like that for years, and that Wiser had improved them by adding inflation. Then he posted a detailed account of a road test in New Mexico, the cover "fully inflated at 75 mph," with the test filmed from a chase RV in hopes of driving into a hailstorm. "I will call you as soon as we leave the Wendy's," he wrote to Rebecca Dunn.

Dunn, it turned out, had set him up herself, though Andy didn't know it. In November 2010, she later explained, she'd "decided to throw Andy a carrot." She sent him a news link about violence in a particular town in Mexico. Soon afterward Andy reported that he was testing in that very region. (His written account said New Mexico; Dunn took him to mean the Mexican town she'd planted. The car cover, apparently, covered both.) She checked. "The Internet does not show any Wendy's in that part of Mexico," she wrote. "It was quite obvious that the photograph was taken in Denver."

In one video, Andy insists the cover "does not inflate." In another, he demonstrates it inflating. In a third, he says the test happened in New Mexico. In a fourth version of the story, noted by the blog, the high-speed testing was in Arizona. The toy Mustang wasn't available for comment.

The Veloster photo stayed on the Wiser website for months. "This is probably my favorite example," Acumen wrote, "of our lunatic friend Andy Esquivel making a complete idiot of himself trying to perpetrate a hilarious scam in the face of embarrassing realities." Then he added something that shows the analyst he

really was: "Andy simply never knows when to give up, even when caught red-handed."

That isn't an insult. It's a diagnosis, and it may be the most important sentence in this book.

❧

Exhibit 2: Wiser Eyes HD Video Glasses

Next to the car cover is a pair of video glasses, the kind that put a screen in front of your eyes, sold as "Wiser Eyes HD."

The photo of Wiser Eyes on the Wiser Technology website was a product shot of a real, commercially available pair of MyVu Solo EV video glasses. The blog posted the two images side by side: "Notice the uncanny resemblance between the two!" Someone had tried to hide the MyVu branding by drawing a black box over the label in the dark space above the glasses, and hadn't done it well. "You can still see the black box he drew to cover it up," Acumen observed. "Pathetic!"

Andy later claimed the glasses were 1080p HD and that you could use them to take a virtual walking tour of the rebuilt Temple of Solomon. We'll come back to the Temple of Solomon. For now, notice the black box. It's the Wiser method in miniature: buy something, put a sticker on it, cover up the old name, and call it an invention.

❧

Exhibit 3: The Samsung Instinct

This was an early piece, from Andy's Xtagged period, and in some ways it's the template for everything after it.

In the video, Andy shows a box for a Samsung Instinct, a 2008 Sprint touchscreen phone, and turns it over to reveal a small silver Xtagged sticker on the back. Xtagged, he explains, now ships bundled with the Samsung Instinct.

That's the entire demonstration. The proof of the partnership is the sticker. He then shows how the software works: point the phone at someone's Xtagged badge, and a "secret formula freezes the shot and automatically takes you to" that person's profile. On screen, as the blog pointed out, this is accomplished by flipping from a stored photo to the phone's web browser. Recruiters could use it, Andy said, to stop pedophiles. "I didn't quite understand that part of the pitch," Acumen wrote, "but Andy is excited about it anyway."

❧

Exhibit 4: The Bluetooth Profiler (*Thumb Scan Edition*)

This one runs thirty-three seconds and was filmed from inside a car at night.

The BTP, or Bluetooth Profiler, was a recurring item in Andy's lists of ventures. In this demo it's a phone app that scans the owner's thumbprint and, once it confirms his identity, starts the car. The text on the phone's screen, the blog noted, promises the app will "stop theft, sex offenders, and aid the FBI and CIA."

The car starts, and according to the blog, the trick isn't hard to spot. The app on the phone was the "CSI App," a novelty fingerprint-scanner game you could buy from the Apple App Store for a few dollars. It doesn't read fingerprints. Ryion Butcher downloaded his own copy and, as the blog put it, "laughed his butt off." The car was started by a remote starter, either in Andy's pocket or in an accomplice's hand. Acumen knew this because he owned a remote starter himself, and because his attorney had downloaded a picture of the same remote from Andy's own Xtagged website.

Acumen raised the obvious objections. A remote starter that reads fingerprints is one thing. "But how exactly does a remote starter stop sex offenders? How would a remote starter, even one

with fingerprint identification, aid the CIA?" Then he asked the question that hangs over the whole Wiser collection:

"...and what does all this have to do with blue-tooth?"

❧

Exhibit 5: The Wiser Pad

We now enter the Wiser Pad gallery, home of the collection's most ambitious piece of performance art.

The Wiser Pad was a tablet computer, or more precisely a Samsung Galaxy Tab. Andy admits on camera that "we first started with the Samsung Galaxy tab." What made it Wiser was a revolutionary input method. You didn't touch the screen. You wore a special fingernail polish, which the blog described as "radioactive" (the blog's word, not a lab's), and when your polished fingertip hovered near the glass, the screen responded. Steve Klemark, Andy said, was developing a version that would work "5, 6 inches away from the screen." The Wiser Pad would retail for $499. There was also an accessory, a Velcro strap called the Wiser Wrap, that would turn the tablet into a sort of knee-mounted workstation. It was priced at fifteen to twenty dollars, with all proceeds going to Karma Cause.

Here is the demonstration, in order.

At about a minute in, mid-demonstration, he says: "It's touching, look, it's changing the screen. I am not touching the screen guys. This is a fingernail polish that..."

Then: "Sorry about that, my battery died."

The thing the screen was "changing" was a slideshow of his daughter. You could argue, as a sympathetic reader might, that it didn't matter whether the polish worked, since the battery died anyway.

In a later show-and-tell video Andy brought the Wiser Pad out again. "This time," the blog noted, "he doesn't bother to don the magic fingernail polish."

❧

Exhibit 6: Wiser Electronic Cigarettes

Now we come to the only product in the collection that physically existed in quantity, which makes it, by Wiser standards, a blockbuster.

Wiser e-cigarettes were real e-cigarettes. They were bought in bulk from a manufacturer in China, rebranded with Wiser stickers, and sold, or at least offered for sale, through a website called WiserElectronicCigarettes.com. The blog called them the only product Andy "could even plausibly claim to be re-selling." A Colorado company called Wiser E-Cig, LLC was registered in April 2010, but not in Andy's name. It was in the name of his mother, Jobita Berriel.

The Wiser e-cig had a full marketing campaign. There was a commercial concept, storyboarded by a Denver agency called Social Fuel, and Andy walked through it on camera with great enthusiasm. A villain named Tobacco Taz is "wanted for killing people" and has a "known scar on the right buttocks of boot print." A model is about to light up a real cigarette. A hero appears, "pushes the button and says technology baby," and a laser fires from the Wiser 510 e-cigarette, puts a green dot on Tobacco Taz's chest, and "blows them off the grid." Social Fuel, according to the blog, later quit the account when it wasn't paid, and the website went dark for months.

There was also a spokesman, "Wiserman," played by Andy's loyal friend Shar Jenkins, who interviewed gym owners and smokers in short testimonial videos. In one, he cheerfully reports that the woman he's interviewing hasn't had a cigarette in two weeks and is excited for "the new 2.0."

And there was a launch, a gala event at a casino in Colorado, filmed as an infomercial in front of a studio audience, with a laser demonstration. It was documented in loving detail by a blogger named Gary TheBus, supposedly a Denver bus driver who'd been

hired as a spokesperson, loved his new job, and wanted, in his own words, a "hot model GIRL as sidekick." "Wa Wa WiserMan!" Gary wrote. His bus company was supposedly buying Wiser e-cigs for all its drivers.

Gary's emails came from busmandenver@gmail.com. In one thread, Andy wrote to Gary that he'd "have to get through beck k then u can have job she is not only CEO she's my kids grandma," then forwarded the thread to Rebecca Dunn: "check out this thread MAMA!"

Dunn later concluded that Gary TheBus, a homeless woman who'd written a thank-you letter for "Karma Credits," and one of the responses supposedly written by Ryion Butcher were "all written by the same person." She called Gary "an illusion." The Gary TheBus blog was later deleted, and the xtagged.co blog, which had failed to save a copy, put out a call for anyone who had one. "The super-secret federal agency that is funding this website solely to foil Andy's efforts to save the world," Acumen wrote, "has authorized me to offer a $50 reward." Acumen took over the abandoned garythebus.blogspot.com address himself and turned it into a mirror of his own site. If you couldn't preserve the evidence, you could at least occupy the crime scene.

"All of the e-cigs had been sold out," Dunn noted, "when Andy had yet to receive his first order." On video, Andy announced, "We completely sold out guys. We completely sold out of Wisers, we have another shipment coming in in a week."

The shipment was the problem. The Chinese supplier was a company called KCD-tech, and its representative, a man named William, kept careful records. Andy had ordered five hundred kits at $12.68 each, $6,340 plus shipping. He'd wired $4,000. William had shipped twenty sample kits and was waiting for the balance of $4,210 before sending the rest.

In November 2010, Andy wrote to William on behalf of "the new owners of Wiser Technology." He explained that Rebecca Dunn had been "put ... on hold until our court date because of

what her son has done." "I sold Wiser technology I am under contract," he wrote. "And the new owners have lots of money you don't want to lose this account." Then he added the classic close: "You will not receive any more Money from us," and threatened that if William didn't "return our money by Monday our Attorney will be brought in."

William's reply is the most measured document in the archive: "you paid USD4000, and only shipped 20kits samples ... But now, you want to offend our agreement ... pls advice the mail address of your new owner."

As far as the record shows, he never got one.

❧

Exhibit 7: Karma Cause Water

This is the gallery of the charitable arts.

Karma Cause was Andy's nonprofit. It was never actually set up as a nonprofit, a point Dunn raised more than once ("I am not certain if he ever understood"), and its name and logo bore a strong family resemblance to an Australian company called Karma Currency. By 2011 Andy was signing his emails "Andres Esquivel, KarmaCause CEO." Wiser Technology, he said, had donated fifty percent of itself to Karma Cause, which made Karma Cause, in his words, the "50% beneficiary."

Karma Cause's main product was water. Its bottles came with a ten-cent return, or you could donate a twenty-five-cent credit to a registered cause such as a homeless shelter. Churches would bottle it. Four churches and three restaurants were already on board, Andy said, and the network was "blowing up."

In his video explaining all this, Andy is filming with his young daughter in his lap. Midway through he says that rather than "just grabbing all the millions of dollars and running off and saying, hey, I'm headed to my mansions and my security," he has chosen

to give back. He compares himself to Martin Luther King. Then he says the quiet part out loud:

"And remember, it's the same tap water."

In a second video, longer and with a song playing in the background that he says is his three-minute timer (he goes ten minutes), he gives the business case: "It's sad that people even sell water when we have it out of our tap. You know, God provided that for free." Then, without any apparent irony: "Even though it's just normal tap water, they're going to buy it. So let's start making a cause out of it."

Bottled tap water, for charity. As a business plan, it's not much worse than the bottled-water industry's. As a confession, it's perfect.

❧

Exhibit 8: "WE ARE BILLIONAIRES!!!!!!"

The last exhibit in this wing is a single email.

On June 29, 2010, Andy sent his inner circle a message under the subject line "We are Billionaires!!!!!!" The attachment was an image of a sleek, futuristic phone bearing the Xtagged logo. This, apparently, was the device that would make it all happen.

The blog found the source. The image was a design concept for the "LG Flutter," a phone that existed only as a concept rendering, with LG's details whited out and Xtagged's added. A month later, on July 29, another email went out to Dunn and Steve Klemark with the subject "top sercret2 WE ARE BILLIONAIRES!!!!!!" and an image attachment called topsecret2!.jpg. It didn't survive. Some secrets are better kept.

❧

That concludes the tour. On your way out you'll pass a few smaller pieces: a "Super X-Man" cartoon superhero for internet safety that, according to the blog, was a smiley-face graphic

borrowed from another website with an X added; plastic bottles with an X scribbled on them in marker, presented as a recyclable product line; and a fake diamond watch. Mind the toy Mustang by the door.

If you walked through the collection quickly, you might think the point was the products. The products weren't the point. Nearly every one of them was announced, demonstrated, priced, and assigned a charitable cause before Andy had a single unit. Some were sold out before the first shipment. A few were "sold," along with the company that made them, several times. None of them, as far as the record shows, ever earned a dollar of profit for anyone.

They didn't have to. The products were a story about a company, and the company was a story about a man, and the man needed the story to keep going for one more week. One more week was always how long it took for the next percent to sell.

The blog later described a video in which Andy, holding his bubble-wrapped prototype and his single aluminum bottle in its protective case, shows his whole line to the camera. "Andy's a pretty funny guy," Acumen wrote, "but even funnier are brainless minions like Alan Brady and Ron Kelsay who follow him around."

That's the next gallery. It's a long one, and most of its occupants are Andy.

CHAPTER NINE

Steve, Zed, Gary, and Other People Who Were Andy

At its peak, the Xtagged and Wiser Technology organization had a remarkably deep bench. The emails, YouTube videos, forum posts, and LinkedIn messages in the archive show these people working for it at one time or another:

- **Steve K**, co-owner, later CIO, inventor of Digital Internet DNA, buyer of Xtagged (for $2.5 million, $2.4 million, $24.5 million, or $500,000, depending on the day)
- **Joe G**, Utah co-founder, now taken care of
- **Dean**, "one of three" principals in the pending sale
- **John**, "Legal affairs"
- **Zed** (also **Zeb**), private investigator and co-owner of Xtagged, compensated with a quarter of a percent of Buzz/Wiser
- **Gary TheBus**, Denver bus driver and Wiser spokesman
- **Albert**, California attorney, of wiserlegalteam.com, who worked for free
- **The Wiserman**, e-cigarette mascot and email correspondent
- **TEAM X**, the corporate voice
- **"Jobita B,"** who passed along a password to the "truth portal"
- **A family member** who wrote at Christmas with urgent news
- **An unnamed homeless woman**, grateful for "Karma Credits"

- **A Scam.com user named "Scam.com,"** who thought Andy was a con artist
- **A Rebecca Dunn** who sent emails Rebecca Dunn never sent

Some of these were real people. Steve Klemark was real. He was a Denver man, a city employee whom the blog described as working in IT for the Denver Police Department, and he had a real LinkedIn profile, a real phone number, and real conversations with Rebecca Dunn. Shar Jenkins was real, and he really did play the Wiserman on camera. Jobita Berriel, Andy's mother, was real, and so was her cell phone. Andy's partner, the mother of several of his children, was real.

The question the archive keeps raising isn't whether these people existed. It's who was typing.

❧

Start with Steve, because Steve is the best documented and the saddest.

The emails that went out in Steve's name during the big "sale" of Xtagged had a style. They used "i" for "I" and "I seen" for "I saw." They piled up exclamation points and skipped periods. Rebecca Dunn had spent her career reading business correspondence, and she noticed it right away. "From the start," she wrote, emails "pretending to be sent by Steve" used phrasing like "I seen." "Andy does not have a command of the English language and has the tendency to misuse and overuse the exclamation point."

The emails Steve Klemark actually sent, the ones she later became sure were his, read differently. They were competent and conventional: "Hello Beckie, this is Steve Klemark, Xtagged ... a comprehensive 20+ page review." They had a working phone number at the bottom. She captioned them "My introduction to Steve whom I felt did not exist." Later she came to think the

opposite. Steve existed, all right. He just wasn't writing most of the Steve emails.

Then there's the hard evidence. Two pieces of it hold up in any court of common sense.

The first is the September 2010 LinkedIn recommendation described in Chapter Seven, the one from "Steve" whose small print gave away Andy's own utxpatrol address.

The second is the domain registration. After Xtagged.com was "sold," the public WHOIS record was updated to list the registrant as "steve k," of Greenwood Village, Colorado. The phone number on the record matched the number that appeared on Steve Klemark's genuine emails and on Andy's own contact sheet. So the domain really did change hands on paper, to a name and a phone number. That's the only paper trail of any sale of Xtagged, to anyone, at any price.

So what was Steve's role? The fairest reading of the archive is that Steve Klemark was a real person who believed in Andy, gave him some money (five thousand dollars, by the blog's count, most of which Steve reportedly borrowed back), lent him his name, appeared in his videos, and served, whether he knew it or not, as the front for an operation that used his identity more freely than he did. Andy told Dunn he kept Steve around because he needed a respectable face out front. Steve's reward, as Chapter Seven recounts, was one percent of the company, which by Andy's account didn't thrill him.

When Steve did speak for himself, he could sound like a man who'd finally noticed something wasn't right. "I think I am going to get fired," he told Dunn at one point, during a dispute with a business contact. Dunn's private reaction was, "What a joke ... Fired from what?"

In July 2011, Rebecca Dunn sent Steve the long letter described in Chapter Seven, addressed to him at work, and laid out everything she'd learned.

She didn't get an answer.

❧

Zed was a different matter. Nobody ever met Zed, called Zed, or saw a photograph of him. He came from an account called GOTINFO, worked for "Mr. Klemeck and the new owners," claimed to be both a private investigator and a co-owner of Xtagged, offered to dig up dirt on Daryl Acumen's wife for free, and signed off for good in May 2010 with a confession and a wink: "my Name is not Zed we have been using Daryl And Ryion as Ginny pigs."

The guinea pig line ties into a theory Andy pushed hard in 2010. The whole online war (the forum fights, the fake names, the insults) had been "a experiment for the last 18 months on search engines." The experiment's purpose was to prove the need for a technology that Steve Klemark had supposedly invented, called Digital Internet DNA, which would trace anonymous online abuse back to its source. In Andy's version, Daryl and Ryion had been the test subjects. "The experiment is over," an email in Steve's name announced that November. "The situation has proven the need for DID ... Daryl's ship is sinking."

It's a remarkable claim. In effect, Andy was arguing that his own sock puppets were the product demo, and that by impersonating people online he'd proved the world needed a way to catch people who impersonate people online. In one video he even admitted that Zed was fake. The blog's video list sums it up: "Zed is fake."

Then there was the Scam.com account. On a popular consumer-complaint forum where Andy and his critics fought for years, a user registered with the name "Scam.com1," so that it looked as if the site itself were talking. Its posts were critical of Andy. They were also, Acumen noticed, strangely bland. They repeated things other people had already said and added nothing new. Andy used to point to the account as proof of the tactics his enemies were using against him.

Rebecca Dunn had watched it happen. As Chapter Seven tells it, she saw Andy work out the username trick in under two minutes. She also kept a copy of a Scam.com post dated October 12, 2010, calling WiserTechnology.com "clearly a scam" and saying "most of there products are fake." She flagged the misspelled *there* as one of Andy's tells. A few days later Andy posted a video blaming the review for scaring off "three potential big lot buyers for the e-cigarette."

"It was a pretend-a-click," he says in that video, a little inexplicably. "Don't sue me."

The final proof came in April 2012, when the "Scam.com" user's profile was renamed "Bannedddddd." Acumen, a veteran of message-board software, explained to his readers why that gave it away. When a vBulletin administrator bans a user, the username stays the same and only the tagline changes, so nobody gets renamed "Banned." There was also the string of d's. Andy was famously attached to a comedian's skit with a chicken costume and a "deedeedee" song, and he signed things with D's and called his enemies "DDDs." "I'm sure many of you have heard Andy say 'I got you now you DDDs,'" Acumen wrote. "It's the kind of humor only a drug addict could understand."

That's harsh. It's also, if you've watched the videos, hard to argue with.

❧

In January 2012 a message appeared on Andy's blog from Ron Kelsay, the Denver-area tattoo-shop owner Andy called his documentary filmmaker. Ron had been following Andy around for months with a camera, and the blog had recently published his criminal record, all of it. The message was addressed to Karma Cause, which was Andy, and it explained Ron's role.

"I was chosen," it said, "not because of my experience but because I could play a role that the others couldn't. Because of my

background I was a perfect candidate to fish out proof of Daryl's tactics."

"So I set myself up as bait."

The letter went on at some length. It described a "slander campaign" by a "sociopath bent on revenge" who'd manipulated "SEC agents, police and the Utah courts." Then it asked a rhetorical question that may be the most self-defeating sentence anyone has ever published on behalf of a man facing securities fraud charges:

"Why would anyone work so hard to expose a con artist unless it were?"

Acumen pointed out, mildly, that the grammar was better than Andy's usual but still not great. He also pointed out that Sundance was going on at that moment, "and Ron's HUGE documentary obviously didn't make the cut."

To be fair, Ron Kelsay was real. He held the camera. He appeared in Andy's videos, including one in which he claimed to have negotiated a roughly twenty-thousand-dollar settlement with the victims, which never happened. In another, the blog noted, he and Allen Brady admitted they'd had to bail Andy out of jail at one point, and Andy explained that he wouldn't be paying them back because it was "against his principles." Whatever else Ron did, he took the role he'd been given seriously.

The documentary never came out. Rebecca Dunn heard about it in a voicemail from Andy in July 2011: a film "for the Sundance Film Festival," "financed in part by Robert Redford." The blog later found Andy promoting a slick sixty-second video about his life as evidence that a major motion picture was on the way. The video had been made by a Denver producer with real credits. Acumen looked up the producer's website and found what he was selling: "The $99 Video Bio!" You show up at the studio between noon and one on a weekday, read your script off a teleprompter, and walk out fifteen minutes later with "a professionally

produced video bio." "What could be better (or more affordable at just $99) than that!"

"So if any Tom, Dick, or Harry can walk into Greenworks Video and have a 60 second bio video professionally done ... for a hundred bucks," Acumen wrote, he couldn't see how that amounted to a movie deal. Andy had also announced that the comedian Carlos Mencia was going to play him. There's no sign Mencia ever heard about it.

❧

None of this would've mattered much if Andy had kept it among his friends. He didn't. He sent everything to everyone.

Andy's email lists are a phenomenon of their own. A typical message might go to his own lawyer, the prosecutor, his victims, their lawyers, Daryl Acumen's lawyer, a reporter at KSL, the Utah Division of Securities' enforcement staff, his mother, Allen Brady, Steve Klemark's work and personal addresses, a Chinese e-cigarette vendor, a Silicon Valley investor he'd never met, and a few dozen people whose relationship to Andy is impossible to work out. Many of them had asked him to stop.

"Would you clowns please stop emailing me?" one recipient wrote in April 2011. "I don't give a crap about your scams."

A marketing consultant named Donna Martinez, who'd met with Andy and Shar Jenkins about possible work in early 2011, sent him a firmer version that May. Stop the ranting emails, she wrote, and remove me from your list. She added a line that's almost tender: "You have no idea the opportunities you have wasted." Afterward, by Rebecca Dunn's account, Donna advised Dunn to change her phone number and block Andy's emails.

The most important person on Andy's lists in 2010 was a Denver attorney named Leonard Martinez, no relation to Donna. Andy said Martinez had been "our Denver Attorney since April of 2010." Andy copied him on everything, called him constantly, and announced that Martinez was handling his lawsuits against Daryl,

Ryion, Scam.com, and Bump. On October 21, 2010, Rebecca Dunn emailed Martinez to suggest that Andy do an interview with Heidi Hemmat, an investigative reporter at Fox 31 in Denver. (Acumen later wrote that he'd helped set up that interview, in the hope that it would expose Andy.)

Martinez answered in a way that should've stopped everyone cold:

"If you are talking about Heidi Hemmat from Fox news, then absolutely NO. He is under investigation and he is not to talk to anyone especially media!!"

That was October 2010. The investigation was presumably the Utah Division of Securities' inquiry into Xtagged, and Andy's own lawyer had just confirmed it in writing to the company's former CEO. Andy kept talking to the media.

Five months later, on March 28, 2011, Martinez sent a short email: "Pursuant to the emails I have received and upon your request I have advised my office to stop working on your cases and files." Andy told his network he'd fired him ("LEONARD you were fired," he wrote that afternoon, adding that Leonard had been hired in June 2010, not April). He also told them that Martinez had "ripped us off," that "We gave this Man $2,600 dollars and he never even sent a stop and diciest letter," and, in capital letters, "DO NOT USE ANY ATTORNEYS IN COLORADO." And he asked his mother to call the bank and report the payment as a fraudulent charge.

The blog counted Martinez as the third lawyer Andy had scared away in two years. He wouldn't be the last, and he wasn't quite gone, either. By late 2011 he'd briefly taken Andy back on to handle repaying the victims.

❧

The lawyer who mattered most to Daryl Acumen during this period was his own: Adam M. Platt, of a firm called Halifax Legal.

By the summer of 2010, Andy had been threatening to sue Acumen for months. On Friday, July 23, he posted a YouTube video showing a draft complaint against him. It would be filed, he said, the following Monday. Its plaintiffs were "WISER E-CIGARETTE, a Colorado Corporation" and "XTAGGED, a Colorado Corporation." It asked a court to stop Acumen from blogging.

It wasn't filed that Monday, or ever. On September 10, 2010, Platt sent Andy a letter by email to the utxpatrol address. Acumen later published it on the blog under the heading "My attorney's official response to Andy Esquivel's repeated threat to 'sue.'" It's the best piece of writing in the whole archive, and it's been preserved, appropriately, as Exhibit A for what happens when a con man threatens a man who has a good lawyer.

"This letter is in response to your incessant refrain that you will 'see [my client] in federal court,'" Platt began. "The short response is – I very much doubt it."

He noted that "the threat has long since been rendered hollow through its shear repetition (to say nothing of the lawsuits that you have several times claimed to have already filed)." He explained that the Colorado Constitution protects speech more broadly than the First Amendment does, and that defamation can't be stopped with an injunction anyway. About the claim for emotional distress on behalf of Xtagged and Wiser, he observed that "corporations – even were those listed as plaintiffs to actually exist – cannot suffer emotional distress." About Andy's evidence that Acumen had wrecked real business deals, he wrote: "What evidence you have proffered so far appears quite implausible – a characterization that, admittedly, may push too far the boundaries of acceptable euphemism."

Then he got to the part every defamation plaintiff should read before filing.

"Part of what makes defamation law so interesting for practitioners," Platt wrote, "is the stories that come out about the

plaintiffs. While defamation plaintiffs are often colorful characters, such as yourself, the real difference lies in the procedural aspects of the claim." In a defamation case, he explained, the plaintiff's character is the issue. That would mean Andy's criminal history: his 1988 state burglary conviction and the 2004 federal firearms conviction, the methamphetamine tests and the revoked bond, any child-support warrants "(should any exist)," and the "by-now-infamous run-in with law enforcement authorities in Bountiful (which I believe you said someone had filmed from the back-seat of your Lamborghini)."

There was no Lamborghini. The blog would later point out, in its long list of Andy's lies, that "Lamborghinis don't have back seats."

"I should note," Platt continued, "that you may perceive the previous paragraph as a threat on my client's part. It is not. It is simply a statement of fact."

He said that discovery in any such lawsuit would focus on whether Xtagged really was a scam, "who invested what, and where the money went." Then he raised the claim Andy was proudest of. "Another area of interest would be Xtagged's much advertised 'facial recognition technology.' I am very interested to see precisely how you managed to invent software that is capable of accurately recognizing facial features within low-resolution cell-phone pictures – a programming feat that continues to elude the rest of the country, despite the many of billions of dollars thus-far devoted to the problem."

That's how a straight man's lawyer writes. He doesn't call anybody names. He just lists what would be asked under oath and lets the reader picture it.

Andy didn't sue. Instead, as he'd been doing since that summer, he kept emailing. Rebecca Dunn later wrote that Andy "has continued to this day to send Daryl's lawyer harassing emails," and in 2011 one of them threatened to mail postcards with Daryl's and his wife's photographs to their neighbors. By the

blog's estimate, Andy sent Acumen and his family about fifty threatening emails over roughly eighteen months.

On July 12, 2010, eleven days before the YouTube complaint, one of those emails crossed a line in Utah County. The Cedar Hills police took a report. In September 2010, the city filed a charge of electronic communication harassment, a Class B misdemeanor, against Andres Esquivel. A judge issued a thousand-dollar warrant. At his arraignment the next year, the court ordered him "to have no contact with Shirley and Darrell Acumen."

So the straight man was now officially the alleged victim in a criminal case against the man he'd been trying to expose. When Andy finally pleaded no contest in February 2012, Acumen did the math on the blog. Fifty emails, a two-hundred-fifty-dollar fine: "Andy was ordered to pay the state of Utah $5 per email. That's one expensive Gmail account!"

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There's a postscript to this chapter. It comes from the end of the Wiser years, after most of the cast had drifted away.

In a private Facebook message to a cousin, written shortly before the events of Part Four and published by the blog in 2014, Andy complained about how alone he'd become. His supporters had fallen silent, and his friends had stopped posting. The message includes a sentence that, read today, works almost as a confession for the whole persona era:

"Nobody blog for me anymore period," Andy wrote. "Not even film people."

Gary, Zed, Joe G, and the man who set himself up as bait were gone, and so was the Rebecca Dunn who never sent those emails. Steve had gone quiet. What was left was a man, his partner, and a keyboard.

PART THREE

State of Utah v. Andres Esquivel

CHAPTER TEN

Fugitive of Utah

Government agencies move slowly, but they don't forget. That's the difference between a bureaucracy and the internet.

Chris Engelbrecht's certified letter came back undeliverable at the end of 2009, and sometime in 2010 he took his complaint to the Utah Division of Securities. On its own, a complaint like that can sit in a file for years. What kept this one moving was the plan that Engelbrecht, Kyle Cluff, and Ryion Butcher had worked out with Daryl Acumen in 2010: the police reports in Bountiful, the cases passed up to the State that September, and Butcher's meeting with the Division a few days later. By 2011 all three men were in contact with the same investigator, Adam Sweet. Sweet was a "securities compliance investigator" who'd been with the Division about a year and a half by the time he testified. He did the plain, unglamorous work that cases like this are actually built on. He checked whether Xtagged was registered with the Utah Division of Corporations, and it wasn't. He checked whether Andy was licensed to sell securities, and he wasn't. He searched the Patent and Trademark Office and found nothing. Then he contacted the DMV.

The DMV wrote back. In Sweet's paraphrase, the letter said the agency had "never had any dealings or operations" with Xtagged or Andy Esquivel, and that "they would never condone such

activity, by allowing a private company to gain access to drivers license and people's personal information."

Remember the DMV. In Andy's pitches it had been "onboard," "in process," "partnering," and about to get fifty-one percent of the company. In reality the Division of Motor Vehicles had responded to a state investigator's inquiry with what amounted to a polite version of *who?*

On May 10, 2011, the Division issued an Order to Show Cause and Notice of Agency Action against "Andres Esquivel d.b.a. XTagged." It's a remarkable document. In flat agency prose, it lays out every claim from the gyms: the two million dollars in government startup money, the postponed Oprah appearance, MySpace and Michael Jordan and Google, the DMV, the patent, the stock that "would be the same as Google's," the "win-win" in which "either way K.C. and C.E. would become millionaires," the promise that "there was no risk in the investment." It records the 1998 Chevy Cavalier, the fitness and diet plan, the $50,000 "royal share," Hugh Hefner, the ten lawyers, the room full of FBI agents he'd "put ... in their place," and Mitt Romney's 2012 presidential campaign. It gives the total collected from the four Davis County investors as $17,000, with $13,000 lost.

Then it lists what Andy hadn't told them. There were three civil judgments, totaling $10,211, and a UCC filing. There were no financial statements, no risk disclosures, and no registration. It charged two counts of securities fraud under Utah Code § 61-1-1 and asked for a cease-and-desist order, a permanent bar from the industry, and a fine.

The notice was sent by certified mail to an address in Bountiful. Andy was living in Lakewood, Colorado, by then, in his mother's house on Upham Street. On June 13 the Division reissued it with a new hearing date and mailed it to Lakewood.

The hearing was set for August 2, 2011, at nine in the morning, before an administrative law judge named J. Steven Eklund. Andy came to Salt Lake City for it, and according to the blog, Allen Brady came with him.

The official record of what happened is brief. "Respondent had not filed a response as of August 2, 2011." Andy told the judge that he'd have a lawyer in "a related criminal proceeding" but that the lawyer wouldn't be handling this one. He mentioned that he was "scheduled to make his initial appearance in the criminal proceeding on August 3, 2011 and will then return to his residence in Colorado." Thomas Brady, then a securities analyst at the Division and later the State's expert witness, had told Andy beforehand that the Division wouldn't oppose a stay. So the judge stayed the administrative case until the criminal one was resolved. Andy was to notify the Division within ten days after the criminal case ended. He never did.

That's all the record says. Andy's version was a lot more exciting. For years afterward he'd tell people that on August 2, 2011, "the SEC Judge" (he always called the Utah Division of Securities "the SEC") had looked at him and Allen and said, and Andy quoted it exactly: "Allen Brady and Andres Esquivel, as soon as you get these charges dismissed in Davis County, I will start an investigation of my own." In Andy's telling, the judge had seen through the conspiracy and was waiting in the wings to rescue him. He put the quote in a motion to dismiss. He said there was a recording.

The administrative order contains nothing of the kind. What the judge actually did was put Andy's case on hold so the criminal court could deal with him first. Andy heard *I'll start an investigation of my own* in the same way he'd heard *the stock is still open*. He heard what he needed.

By the time of that hearing, a criminal case already existed. On July 19, 2011, the Davis County Attorney's Office had filed three felony counts of securities fraud against Andres Esquivel in the Second District Court in Farmington. One was a second-degree felony, for a transaction of ten thousand dollars or more (the judge would later tie it to Kyle Cluff), and two were third-degree. Together the counts carried a theoretical maximum of twenty-five years in prison. A judge issued a ten-thousand-dollar warrant for his arrest.

Andy didn't live in Utah anymore, so the warrant found him in Colorado. Bail paperwork from a Colorado surety company, later posted on the blog, shows him booked in late July 2011 as a "Fugitive of Utah." His mother, Jobita Berriel, arranged a $10,000 bond through a bail agent, putting down $540 in cash on July 29 and promising another $500 within a week.

The next day Andy wrote to Rebecca Dunn. It's the only time in all his surviving correspondence that he mentions the arrest in his own words:

"They came and arrested me in front of the girls ... I am now out on a 10,000 bond."

He went on to tell her about a coming meeting with "the Utah SEC," the "Alpine court to answer Daryls false information charge" (meaning the harassment case), a not-guilty plea in Davis County, and "Ron the film documentary man." The forwarding note on the email was pure Andy:

"DON'T LET DARYL FOOL YOU COURT IS NOW EMINENT!!!"

Court was indeed imminent. He spelled it "eminent." On August 3 he made his initial appearance in Farmington. That same day, while he was in the Davis County system, something else happened that he hadn't planned for. The old Utah County warrant from the Cedar Hills harassment case came up, and he was booked on that too. The harassment docket records it in its usual flat style: "Warrant recalled. Defendant booked by Davis

County Sheriff." A bonding company posted a thousand-dollar surety bond on August 8.

Two weeks later, on August 23, Andy stood before a judge in American Fork for his arraignment in that case and heard the condition of his release: "Defendant is to have no contact with Shirley and Darrell Acumen."

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Andy took the next few months the way he'd taken the federal case a decade earlier, and the way he'd take most things for the rest of his life. He asked for more time.

In early October he faxed the American Fork court asking for a continuance, and got one. At his October hearing in Farmington he asked for more time there too, and in the process waived his preliminary hearing, the one proceeding where the State would have had to put its evidence on the record before trial. That left an arraignment, set for November 22. In mid-November he faxed a letter to the Davis County judge's clerk from a Staples print center in Colorado, asking to postpone it. (He called it his preliminary hearing.) "I have decided to retain counsel," he wrote, "and he (Ron Yengich) should be contacting you within a week."

Ron Yengich was one of the best-known criminal defense lawyers in Utah, the kind of lawyer people hire when they're charged with something serious and can afford to pay for it. There's no record that he ever appeared in the case. Andy had announced on his website that October that Allen Brady had gotten Yengich to take the case, though the fee was "double what Ryion, Kyle and Chris put into the company," so they'd wait until after the preliminary hearing to retain him. The blog later reposted that announcement as a sort of public service.

Andy's fax gave other reasons too. "Some of my witnesses cannot attend." He'd "had to wait for the prosecutor to go through the discovery and decide whether or not to settle with me." And there was the commute: "We are trying our best to get out to you

from Denver, Colorado to make all the dates, but with the holidays coming and work schedules increasing, it gets hard."

Work schedules increasing. According to his own later sworn affidavit, he hadn't held a job since June 2009.

On November 22, the day the Farmington hearing had been set for, the American Fork court got another letter from Andy asking for an extension, and a fax from his mother. The fax accused Daryl Acumen of getting hold of the earlier continuance letters, which the fax said Steve Klemark had sent, and of "having a laugh with the AF prosecutor." It also included a line that the court presumably read with interest: "This is why your witnesses should be concerned with their safety. You were jumped once before and these people are bragging about it while Daryl laughs it up with them." Partway through, the voice slips from the mother's to the son's. "My court date," it says.

The American Fork court gave him one more continuance, with a note in the minutes that it "will not be continued another time."

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On UtahRaves, the thread had been waiting for this for seventeen months.

On July 25, 2011, Acumen posted the news. Three felony counts of securities fraud, filed in Davis County. And, at last, a case number: 111701135. For a year and a half Andy had been promising to see everyone in federal court, and the forum had been asking him for a case number. Here was one. It just had the wrong name in the defendant's box, from Andy's point of view.

Acumen signed off politely. "Thank you all for reading this thread," he wrote, "and have a wonderful Pioneer Day! :)" Pioneer Day is the state holiday honoring the arrival of the Mormon settlers in 1847. It's a day for parades and fireworks. That year it had an extra float.

The regulars had a field day with the mugshot when it surfaced. ("That is the ugliest most beautiful picture I have ever

set eyes on," wrote cyruss77.) Ron Kelsay arrived on the thread that fall to announce that he was making a documentary, and to ask Acumen, more or less, what his problem was. Wasn't it true that Daryl had never been a partner, and had lost nothing?

"Ron, my motivation is to expose a con-man!" Acumen answered. "I thought that would be obvious, but clearly I over-estimated your intelligence."

Ron got the last word four days later. "Daryl," he wrote, "good Samaritan does not match your personality type."

Acumen's answer was true. It wasn't the whole answer, and Acumen wasn't about to give a stranger with a camera the whole answer. His mother had spent much of 2010 working for Andy, two months of it as his CEO. By the summer of 2011 she'd started forwarding Andy's emails to her personal account, and then to her son, who passed them to the State's investigator. He didn't need to explain it to Ron.

The fall brought a new running gag, and it was the oldest one in Andy's repertoire. Now that charges had been filed, Andy was suddenly eager to pay the victims back. Ryion reported at the end of October that Andy had promised "certified funds" by the end of the week. Acumen kept a running tally on the board.

"No, We have not been paid back," Ryion wrote in November. "Maybe this friday or saterday, but you've been right about everything so far. I'm not holding my breath."

"Hey Ryion," Acumen wrote one weekend, "it's Sunday...do you know where your money is?" Ron Kelsay posted that the checks were ready at the office of Leonard Martinez, who had briefly taken Andy back on to handle repayment. Kyle called the lawyer's office. There were no checks. There was, he was told, an unsigned check from Andy to the lawyer.

At the end of November, more than eight hundred posts after it started, Acumen summed it up. "The legal system may be slow," he wrote, "but I think we've shown that with patience and courage it does work!"

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Somewhere in this stretch, after the case had started, Allen Brady called Acumen with an offer.

He had documents, Allen said. They proved that Andy had taken fifty thousand dollars from Allen's mother. If Acumen wanted them, he could come by the house and pick them up.

It's hard to know, even now, what Allen really wanted. What Acumen remembers is that the documents weren't the point. The point, it seemed, was the argument. When he got to the house, Allen's mother was there. Georgia Brady was the woman who'd signed the GAB subscription agreement in 2008 and written to Andy's company, two years later, that "Like it or not, Andy has committed fraud." Acumen had posted one of her emails on the thread with a caption that was unkind to her son and kind to her. Seeing her in person, in her own house, he felt terrible. This was what the money had been, before Andy turned it into ten percent of nothing: a woman's savings, in a house like this one.

She invited him to stay. So the three of them sat down at the dining room table and talked.

Allen played the skeptic, or tried to. He allowed that Andy had made mistakes. But Xtagged, he argued, had been a legitimate business once, at least in the beginning. Something real had gone wrong with it.

"It was NEVER legitimate," Acumen said.

Then he made the comparison he'd made on the forum more than a year earlier, only this time across a dining room table. He'd worked at Omniture. When Adobe bought it, it was worth $1.8 billion. It had been among the fastest-growing publicly traded companies in the country. It had about fourteen hundred employees and a mature product, and it brought in hundreds of millions of dollars a year from enterprise customers like eBay, Walmart, HP, Microsoft, Apple, and Nike. That was what a billion-dollar internet company looked like.

Andy's company, by contrast, had maybe three employees, none of them paid. It had no business license, no product, no patents, no revenue, and no office. And it said it was worth a billion dollars.

Georgia Brady listened to all of it. When he finished, Acumen remembers, she turned and looked at her son, and the look said what she didn't. *Finally you brought someone into my home who makes some sense. Are you going to listen to him?*

He wasn't. Allen, as Acumen put it later, was "as drunk on the Kool-aid as ever." He'd keep driving Andy to court for years. Acumen drove home thinking about the two mothers in this story, his own and the one he'd just met, and about how much easier it is to see the man clearly when he isn't your son's best friend, or, in the words Acumen's own mother had once used for Andy, "like a second son."

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Between early December 2011 and mid-January 2012, three things happened.

First, Andy finally hired a real lawyer. Michael T. Holje of the Salt Lake firm Brown, Bradshaw & Moffat entered appearances in all three of Andy's Utah cases: the Bountiful disorderly conduct, the American Fork harassment, and the Davis County fraud. Holje was an experienced defense attorney who billed, according to Andy, two hundred dollars an hour. Andy called him "my $200 an hr lawyer" and, in another email, "Mr. Superlawer.com." According to the blog, the money came from Allen Brady.

Second, Holje did what a competent defense lawyer does with a client who's waived a preliminary hearing he shouldn't have. He got the waiver undone. On January 17, 2012, Holje persuaded the court to remand the case for the preliminary hearing Andy had given up in October. A preliminary hearing would now actually be held, the victims would actually testify, and the defense would get its first real look at the State's case.

Third, and most important for this book, the thread died, and the blog was born.

Earlier in 2011, Acumen had sold PartyUtah.com and its sister sites to V2/Bondad, a Utah rave promotion company. The thread came with them. On December 3, an email from Andy's camp went to "the new site owners," warning them that Acumen had moved his domains over to their names and threatening a fresh set of lawsuits, to be filed in January, along with a gag order at Andy's next hearing. Acumen posted it on the thread with a question for the regulars: "Does this feel like deja vu to anybody else besides me?"

Then he wrote what turned out to be his last post on UtahRaves.com. It was four words long.

"See yawl in court!"

The new owners didn't want the trouble. They didn't moderate the thread or take it down. They shut down UtahRaves.com, the whole site. It had taken Andy two years of threats to accomplish nothing at all against Daryl Acumen. Against people who'd owned the website for a few months, it took a few threats.

Acumen didn't need a message board. He needed a place to keep the record. On December 6, 2011, the day Andy was due in Farmington for arraignment, he launched a website.

He called it xtagged.co, a small joke on Andy's own dot-com. He opened with an explanation that's worth quoting in full, because it's the founding document of the archive this book is based on:

"So there's this pathological lying sociopath out there named Andres 'Andy' Esquivel, owner of a scam website called 'Xtagged.com,' who's been duping people out of thousands of dollars pretending he's a legitimate investment and claiming that he is about to get bought out by Google for 'a billion dollars.' One of his victims posted a message about him on my prototype website of mine two years ago and this psychopath has been threatening to sue me ever since. Because seems obsessed with

threatening to sue everybody from City Weekly on down and I grew tired of hearing his garbage, I decided to create a blog to call him out."

You could quibble with the vocabulary. *Sociopath* and *psychopath* are clinical terms, and Acumen isn't a clinician. But listen to what he's really saying. He's tired. He's been threatened with lawsuits for two years. He's watched a man he'd dealt with for three months in 2007 and 2008 grow into a recurring character in his own life, sending emails to his lawyer, his mother, and his neighbors, and making YouTube videos with his name in the title. He's a man with a full-time job who has decided, as a reasonable response to an unreasonable situation, to keep writing things down. What he doesn't say, in the founding document or anywhere else on the front page, is the reason that mattered most to him. That was between him and his mother, and it wasn't finished yet.

The first posts that day set the pattern for the next nine years. One was the criminal history of Ron Kelsay, Andy's cameraman, reproduced case by case from the public record. The other was Adam Platt's letter. Within two months the site had a "Trial Updates" page, a "Video Reviews" page, a complete list of Andy's YouTube videos with commentary ("all 94 of them," the page announced; it actually listed more than a hundred), and a page called "Beckie Speaks," which held the documents Rebecca Dunn had sent her son.

Acumen also posted every court document he could get, which turned out to be a lot. Utah's court dockets are public, and printouts are cheap. He'd pull the case history in Farmington, Bountiful, or American Fork, scan it, and post it with a short summary and a link: "[PDF]." Over nine years the site collected more than a hundred of these. They're the backbone of this book. The commentary around them was, let's say, partisan. The documents themselves are just documents. They have case numbers, judges' signatures, and filing stamps.

The blog's tagline about its mission was simple: "This website will stand in perpetuity as a warning to anybody considering getting involved with Andy Esquivel…" Every time Andy did something new, the blog posted it. Andy, who searched his own name compulsively, read every post. He'd respond with a video or an email. The blog would post that too. It was a feedback loop with a man who couldn't stop talking on one end and a man who couldn't stop writing it down on the other. It would run for almost a decade.

"This website," Acumen once observed, "is in fact kept alive by the fact that Andy doesn't know when to shut up!"

❧

The two smaller cases wrapped up first, and they gave the blog its first wins.

On February 6, 2012, in the Bountiful disorderly conduct case, Andy entered a guilty plea by affidavit from out of state. The court held it in abeyance for six months, with a three-hundred-dollar fee and the usual condition that he not break any laws. The failure-to-appear charge was dismissed. Holje then moved to apply three hundred dollars of the five hundred in bail to the fee and refund the rest; a separate $250 bail posted by "Gene Brady" was refunded to him. Acumen's case summary ended with a dry note that the court file showed no sign of a lawsuit Andy claimed he was bringing against Bountiful for racism. "Case closed."

Before the harassment hearing, Andy had posted on his website that "American Fork prosecutor offers Andy plea bargain (NO jail and one year probation). Andy said no thank you. WHY? because Andy is innocent!" He announced that his supporters would be there for the hearing on February 17: "WE ALL WILL PROVE EVERYTHING 02/17/2012 9:30AM AT AMERICAN FORK! Steve, Shar, Allen, Gene, Denise, Jake, John, Ron and more."

On February 17, 2012, Andres Esquivel pleaded no contest to electronic communication harassment. The court held the plea in abeyance for twelve months, ordered a two-hundred-fifty-dollar fee payable at fifty dollars a month, and told him to obey all laws.

That was the day they all proved everything.

A month later came the preliminary hearing in the fraud case. Andy's supporters came to that one too, and they spent it in the hallway.

CHAPTER ELEVEN

In the Light Most Favorable

The preliminary hearing was supposed to start that Wednesday afternoon, March 21, 2012. Before anybody was sworn in, there was a negotiation.

What happened next comes from the blog, which got it from people who were there, and from Andy, who later described it in his own way in emails and court filings. The two accounts agree on the outline. Before the hearing, Michael Holje went to the prosecutor with an offer that's standard in fraud cases. His client would repay the investors, and in exchange the charges would come down. If Andy could make Kyle, Chris, and Ryion whole that day, the case might go away as misdemeanors with no jail time. The blog's version is that Holje offered to have the money in hand "within an hour."

The amount at stake was about thirteen thousand dollars.

Andy couldn't come up with it. He was the man who'd been telling everyone for four years that Xtagged was worth a billion dollars, who'd told Kyle he'd sold it to Donald Trump, who'd announced that Shar and Steve had handed him a $250,000 cashier's check, and who'd told a Chinese vendor that the new owners had "lots of money." On the afternoon it actually mattered, he couldn't produce thirteen thousand dollars.

Andy's account of the same moment is that his lawyer tried to bully him into a plea. The offer came before the victims took the

stand, he wrote that June. In a 2013 motion he put it this way: his lawyer pressed him to "take misdemeanors plea without ever showing me the witnesses and evidence against me." Andy said no. A month earlier he'd turned down the American Fork plea offer, too, on his website, in capital letters, because "Andy is innocent!" Then he took it.

So the hearing went ahead.

The courtroom in Farmington was an ordinary district courtroom, with gallery seats where Andy's supporters would've sat if they'd been allowed in. They weren't. Most of them were potential witnesses, at least according to Andy, who had listed them all on his website. The exclusionary rule kept them in the hallway.

That was where Andy's movement would always end up in this story, in the hallway, while the real thing happened inside.

The prologue and Chapters One and Four covered the three victims' testimony: the lanyard, the stock that was "still open," the Cavalier, the Bogie's parking lot, "he believed in karma," Hugh Hefner, "I feel really stupid." Here's the rest of the afternoon, which mattered at least as much.

Holje's job was to poke holes, and he was good at it. With Kyle Cluff, he walked through the convertible promissory note and got Kyle to agree that it called the investment "highly speculative" and said it involved "a high degree of risk." Had Kyle read the note before signing? "I did not." Had Andy ever used the word "stock"? Kyle didn't remember. Hadn't Kyle relied on a lawyer's email valuing one percent at fifty thousand dollars, and not on Andy? "It was based on both," Kyle said. Holje got him to agree that the two-thousand-dollar diet-plan credit was something Andy offered "out of the kindness of his heart, essentially." Kyle's answer was a masterpiece of Utah politeness: "Well, I guess so."

With Chris Engelbrecht, Holje asked the businessman's question. Isn't an investment without risk "kind of an oxy-

moron"? Engelbrecht agreed it was. Had Andy affirmatively said it, or had they just never talked about it? "No, he said that in my office." That was when Engelbrecht explained that Andy "believed in karma." Holje closed with a question that summed up his whole theory of the case: "Is it fair to say that your buddy Kyle made an investment and thought it was good, and you jumped onboard?"

"Yes."

Holje wasn't wrong. That's how affinity fraud works. It doesn't need everyone to believe the pitch. It needs one person you trust to believe it.

With Ryion Butcher, Holje went after the inconsistencies in Ryion's share certificates ("150,000 shares (100,000)"), his title as "X-Tagged representative of Utah," and his two-year online campaign against Andy. He also brought up something that showed how much work had been going on behind the scenes. A woman named Kathy Morris, Holje said, had approached Ryion about "getting some money and drifting off into the sunset" rather than going forward with the case. Had Ryion turned her down?

He hadn't. "I even said he didn't have to pay me back the 12 percent interest," Ryion said. "I just said, 'Just give me the 5,000 and we're done.'"

The five thousand dollars never came. Ryion said he'd called Andy's Denver lawyer, Leonard Martinez, "at least 20, 30 times" and never gotten an answer. Engelbrecht testified that in December 2011 he'd received emails from someone on Andy's side, with "a picture of a check with my name on it for $2,000," telling him to work through Martinez. Then "all communication at that point fell off." It was a picture of a check, and it was the only form of payment Andy ever seemed comfortable with.

Then came the State's investigator and its expert, and the afternoon turned from story to paperwork.

Adam Sweet testified for about ten minutes, and he was devastating in the dullest possible way. He'd checked the Utah Division of Corporations: "X-Tagged had no listing." He'd checked the licensing records: Andy was never licensed to sell securities in Utah. He'd searched the U.S. Patent Office: "no results for X-Tagged." He'd contacted the DMV and gotten back the letter saying the agency had never had any dealings with Xtagged and "would never condone such activity." The defense stipulated to the three old civil judgments, so nobody had to "go through half a dozen judgments."

On cross-examination Holje tried the Wyoming angle. Hadn't Sweet looked into other states? Sweet thought he'd come across a registration in "either Colorado or Wyoming." He checked his report. In Colorado, he said, "X-Tagged held a name reservation … from April 1st, 2010 to July 30th, 2010, with Darrel Acumen listed as reservation holder."

"Okay, not Andy Esquivel?" Holje asked.

"No," Sweet said. "If it had said his name I would have put that in there."

Wyoming, he added, was "new to me."

Readers of Chapters Six and Seven know the story behind that reservation. The man who'd actually reserved the name Xtagged with the State of Colorado was the man trying to prove it didn't exist. He'd done it partly to make that point, and he'd mentioned it in an email to a fake private investigator. It never came up again in the case. The only document in the State of Utah's investigation that put anyone's name on Xtagged with a government agency had Daryl Acumen's name on it, misspelled.

Holje also got Sweet to mention one more detail. A business called Single and Dating had been registered in Utah, with Andy as a principal. It was the predecessor, the bumper-sticker site Fox 13 had warned women about. Andy had managed to register the dating site and never the investment.

❧

The last witness was Thomas Brady, acting director of enforcement at the Utah Division of Securities. He'd been in the job a month and with the Division just under three years, and he had a BYU political science degree and a law degree from Michigan State. (Again, no relation to Allen.) He was there as an expert, and his assignment was to explain to a district judge who didn't hear securities cases why a handwritten note in a nightclub parking lot was a security.

Brady explained that under Utah law a security can be "a stock, a note or a bond, an interest in an LLC," or an "investment contract," and that the point of regulating them was "to protect the investors. Not to inhibit business, but protect the investors."

The defense objected to the "academic lecture." It was already a quarter after five. "I'm sure everyone's having a good time," the prosecutor, Nathan Lyon, said, "but I will try to move us along." The judge suggested they'd probably gone far enough, but agreed that it was the State's burden to give the court some definition of a security, and allowed a few clarifying questions.

Brady used them well. He walked through the U.S. Supreme Court's test for deciding whether a promissory note is a security, from a 1990 case called *Reves v. Ernst & Young*. It's the "family resemblance" test, and it asks four questions. Did the buyer and seller expect an investment? (Yes.) Was it offered to the public? (Hard to say.) Would the public think it was an investment? ("There was no consumer nature to this. It looks like an investment.") Was there anything reducing the risk, like insurance or collateral? (No. "A CD is regulated by the FDIC … There is no protection here for the investor … nor was the note collateralized.") Three out of four. "Missing one is not dispositive; so in my opinion it's likely to be a security."

The misstatements were easy: the patent, the DMV, and "the statement that there's no risk in an investment, especially a high

yield investment like this one." Brady added that a valuation needs "a reasonable basis." If you tell someone a stock worth a dollar today will be worth hundreds, "there needs to be some disclosure as to how that's going to happen." The omissions were worse. There were no financial statements, no track record, and no mention of the judgments.

On cross-examination, Holje's questions led Brady to the oddity of the case. With Kyle and Chris, Brady said, Andy had "offered one type of security" (stock, a dollar a share, going public next week) "and sold a different security," a promissory note. ("Deliberately?" Holje cut in. Brady just finished his sentence.) When Holje asked whether the offer was where the fraud came in, Brady said, "I'd say fraud comes in on both the offer and the sale."

❧

Holje made his argument, and it was the best one available. Count One was the second-degree felony, and it depended on getting Kyle Cluff's investment to ten thousand dollars. Kyle had put in six thousand in cash. The rest was a two-thousand-dollar credit for a diet plan that "Mr. Esquivel on his own" decided to give, "just to be a nice guy, apparently, or whatever," and two thousand for the title to "a ten-year-old car that by his own admission is inoperable." "I would suggest that a ten-year-old car that's inoperable in a Chevy particularly is not worth $2,000," Holje said. "That's just a number that was arrived at by Mr. Esquivel."

It's a good argument, and it has a delicious irony. Andy's lawyer was arguing that his client's own valuations were made up.

Judge Allphin explained the rule. At a preliminary hearing, the court "doesn't have the opportunity to weigh the evidence, and has to take the evidence in the light most favorable to the State." He spoke directly to the defendant: "So specifically, Mr. Esquivel, as it pertains to your lawyer's arguments regarding the value of the vehicle and the value of the diet plan, the fact is there was

evidence presented that those were the values; 2,000, 2,000, $6,000 cash."

In other words, Andy had said the Cavalier was worth two thousand dollars, and the court would take him at his word.

The court found probable cause on all three counts. Count One, the second-degree felony, would "follow Mr. Cluff." Counts Two and Three, third-degree felonies, covered the other two victims, though the judge declined to assign one to each. The judge added that securities cases weren't something his court usually saw, but after reviewing the statute and hearing the experts he was satisfied there was enough evidence "that these alleged incidents were in fact a security transaction on each one of the three counts, and therefore the violation occurred."

He sent the case back to Judge David Connors, the assigned judge, for trial. There was a brief mix-up about Connors's calendar. Allphin thought he heard cases Wednesday mornings, and the prosecutor and clerk both corrected him to Tuesday. "Thank you for keeping me straight," he said. Holje waived the reading of the charges, and the judge entered not-guilty pleas on all three counts. A pretrial conference was set for Tuesday, April 24, at 8:30.

"Court will be in recess," the judge said. "Thanks, Diane."

❧

Then Andy walked out into the hallway.

The video is on the blog. Andy comes out of the courtroom to his people and starts explaining. Whatever he told them in those first minutes, it was not "I've just been bound over for trial on three felonies, the most serious of which carries up to fifteen years." By the blog's account, he put the best possible spin on it.

About a week later he was accusing the witnesses of perjury. By June he had a number. Ryion, Kyle, and Chris, he wrote, "committed perjury 22 times." Then, with what you have to admit

is a nice touch of precision: "we stopped counting at 22 I know their is more."

His main evidence, that first week, was the "World Peace!" email described in Chapter Four, the one Andy said Ryion had sent and signed as a one-percent owner. Andy circulated it with the note "Look how Ryion signs off!" His theory was that someone who calls himself an owner can't have bought a security.

Acumen posted it on the blog with a one-line response: "…boy, nobody saw that coming." Then, more seriously, he asked the question any defense lawyer would've asked. If the accusations had any merit, "wouldn't his attorney have raised questions about the given testimony during cross examination already?" And "would you advise your client to post your allegations on the web for everybody including the prosecutor to see weeks in advance?"

He also wrote down, in a single paragraph, the history of Andy's defense so far, which reads like a staircase going down:

"First there were no charges. Then the police were going to testify in a counter suit. Then the charges had been thrown out. Then Allen Brady was supposed to be negotiating with the DA to have the case dismissed. Then there was going to be a change of venue to Colorado. Then there was this box of evidence that Andy was going to use to beat the case. Then Andy was going to have all his friends testify in his defense. Then Andy was going to reveal all the details of this huge three year conspiracy in court. Now there's perjury."

In the same post he made a prediction: "Next Andy will claim he was framed or that his appeal will exonerate him. Finally Andy will say it was all staged for a documentary about how an innocent man can get charged with fraud with an insider's look at life behind bars."

Hold on to that last sentence. It was a joke at the time.

There's one more piece of the record from this period, and Andy put it there himself.

On February 28, 2012, a few weeks before the hearing, Michael Holje had sent his client a short, private email. The subject line was "confidential email for Andres Esquivel." It said:

"Andy, Who is Melissa Garr in Ogden, Utah? She is alleging that you, through XTagged, took $100,000 from her."

Nobody outside Andy's circle would ever have seen that email. Melissa Garr was never named in a charge. Her claim was never tested in any court, and nothing in this book should be read as saying it was true. It was an allegation that a defense lawyer had heard about and was asking his client to explain.

On June 15, 2012, Andy forwarded it to a real estate broker, a video producer, the Digital Internet DNA address, "Steve K," and Allen Brady, under the subject line "Here is one of the emails from my $200 an hr lawyer." His point was that the date proved Holje had been trying to pressure him into a plea before the hearing.

The blog posted it four days later. Acumen noted, accurately, that by forwarding his lawyer's confidential email to a list of third parties, Andy had waived the privilege that protected it.

By then Holje was gone. Andy had dismissed him in May. Holje's one public comment on the matter, preserved in another of Andy's forwards, was a single sentence:

"As I am no longer representing Andy, please remove me from your email list. Thanks."

CHAPTER TWELVE

Repugnant

On Tuesday, June 19, 2012, Judge David Connors set a trial date. *State of Utah v. Andres Esquivel* would be tried before a jury over three days, October 24 to 26, 2012. A pretrial conference would come first, on August 14. And Andy, who had dismissed his lawyer the month before, would represent himself.

If you've ever wondered what happens when a man who believes he can talk anyone into anything is given a courtroom, the next eight months are the answer. Mostly what happens is that he doesn't show up, and the people who do show up get tired.

❧

The summer started with family.

The week the trial date was set, the blog reported, Andy's mother began calling relatives. Her message was that cousins who had posted or "liked" links to xtagged.co on Facebook would be going to jail. She said the prosecutor was going to drop the charges against Andy and charge them instead. "Complete falsehood," the blog wrote. The prosecutor wasn't charging anybody's cousins. Still, the calls show how the case looked from inside the family. The trouble wasn't the money. The trouble was the internet.

In October the blog published something more serious. It said it had learned "on very good authority" that Andy had taken just over eighty thousand dollars from his own relatives: ten thousand each from two cousins in Colorado, and sixty thousand from an aunt in California who invested in real estate. That information was never tested in court. No relative pressed charges, and this book can't confirm the figures. What the record does show is that an aunt appears repeatedly in Andy's own videos and emails as "an investor," holding six percent or so of Xtagged and backing the Wiser e-cigarette launch with a loan. "My aunt uses it," Andy says in one early Xtagged demo, showing her profile. "She's an investor. Anybody that she invests with, she wants them to be branded."

Late that month, Andy posted a LinkedIn profile under the aunt's name. It said she'd been an owner of Xtagged and would testify for him at trial. The blog listed reasons it thought the profile was fake. One was that it referred to Andy's enemies on a first-name basis, as "Ryan & Daryl," as though the aunt knew them personally. Acumen had never met her. Another was that the profile photo showed her standing with her license plate, which had been edited into the picture. Andy had done the same thing earlier with a profile in Rebecca Dunn's name.

"It is amazing to me," Acumen wrote, "that someone who's been charged with fraud continues to use fraud to proclaim their innocence." Then he gave some advice that sums up the blog's whole editorial position: "You know what they say: when you find yourself in a hole, stop digging!"

He'd repeat that line a lot over the years. Andy never once took the advice.

❧

In July the State filed a routine motion for reciprocal discovery. The defendant had to disclose his witnesses, his exhibits, his experts, and any alibi or mental-state defense, so the prosecution

wouldn't be ambushed at trial. The court granted it on July 17 and mailed the order to Andy in Lakewood, since he was his own lawyer now. The blog described the order as requiring Andy to produce his evidence "or to provide proof that he is in fact insane." That was a slightly exaggerated reading of the standard notice requirement for a mental-state defense. Less than two years later it would turn out to be more prophetic than anyone intended.

Andy didn't comply, and he wouldn't for almost a year. Meanwhile he was busy.

On July 20, 2012, a gunman opened fire in a movie theater in Aurora, Colorado, killing twelve people. A few days later a statement appeared on the Wiser Technology homepage. Andy explained that an announcement planned for "the 07-19 weekend," which was also, he noted, the first anniversary of "the fake security charges filed in Utah," had been postponed out of respect for the victims. Then he claimed that Wiser had developed technology in 2010 that could have prevented the shooting. There was a Bluetooth alarm system, an iPhone app that could tell gunshots from firecrackers, and bullets engineered to make a distinctive sound. And then: "this technology would have saved lives if it were not for the extreme negligence of Daryl Acumen & co-conspirators smear/slander campaign."

That was the first time. It wouldn't be the last. Over the next year, Andy would announce Wiser inventions that could have prevented the Sandy Hook massacre, the Boston Marathon bombing, and a series of deaths from distracted driving, including that of a child whose name he attached to a "foundation." Every one of them would have worked, he said, if Daryl Acumen hadn't stopped them.

The blog's tone on most subjects was mocking. On this one it was disgusted. "Personally I think it's sick for a con-artist to leverage the deaths of innocent people to pump up his own scams," Acumen wrote. After Andy announced a bicycle helmet to be donated to the child's "foundation": "Using the death of a child

to pump up your own scams is disgusting." There's nothing to add to that.

❧

August 14, 2012, gave the record its first real courtroom comedy, and it's in the minutes.

At the pretrial conference before Judge Connors, "the parties are unable to reach a resolution." Andy said he wanted to go ahead and represent himself. The prosecutor asked the court to go over Andy's right to counsel for the record, and the court did. Andy waived it. The October trial would go forward as scheduled.

Then the case was recalled at 1:15 that afternoon. The minute entry reads: "Mr. Arrington indicates that the defendant has changed his mind and would like to be represented by counsel. Defendant is indigent and requests a public defender." (Arrington, a public defender, happened to be in court that day. A year later he'd become Andy's lawyer.)

That morning Andy had been his own lawyer. By lunch he'd quit the job. The court appointed a public defender named William Albright, a veteran Davis County defense lawyer, to take the case.

❧

That fall the products got stranger.

On September 21, 2012, Daryl Acumen's new iPhone 5 arrived. You might think a man who'd been running a blog about a con artist for nine months would spend that afternoon doing something else, but he wasn't wired that way. He set up the phone, opened the App Store, and searched for Xooplay.

Xooplay was Andy's newest venture. He'd demonstrated it in two YouTube videos that the blog said had "crude graphics that look like they were drawn in crayon by a six year old child." In Andy's words, it was "the Xooplay Bluetooth making love app. I

usually say sex app." It had a "bachelor mode," which flashed a warning to use a condom ("no condom, no sex"), and a "true lover mode," in which couples could earn "reward money at Amazon." In the main demo, a woman watching *American Idol* taps a 3-D silhouette on her phone, and in the next room her husband, who's "working on the fireplace," feels his phone buzz. "He gets a little vibration," Andy explains, "and he's like, wow, what a treat. My wife is calling on to me."

The idea, he said, had come to him after he met someone "from a Swinger Association" at a party at Playground.

He'd also described it, in another video, as an STD-alert system. His teenage kids, he said, were now planning to wait until marriage rather than risk a bad rating on Xooplay. And, careful about his legal position, he noted: "I don't own it. I co-invented it and I donated my percentage to Karma Cause."

Acumen searched the App Store for "Xooplay" and got nothing. He searched for "Bumps in the night," the app's supposed subtitle, and found "a cute little Halloween app." He searched for Xtagged and Wiser Technology. Nothing. "I did not try the same thing on Android," he added, "because Andy currently claims to be suing Google and has started a 'Die Google Die!' campaign."

Then he did what an analyst does when the data is missing. He called the source. He contacted Apple's iOS developer support team. According to Acumen, they told him that none of the people or companies he named had ever applied for an Apple developer license, and that a sex app of that kind wouldn't have been approved anyway.

"In other words," he wrote, "Andy is, as usual, completely full of crap."

That sentence could serve as the blog's motto. It's not elegant, but it's accurate, and it's usually backed by a phone call.

❧

The October trial date came and went. Albright needed time to prepare, and the trial was reset to February 27 and 28, 2013. In the meantime the blog posted three documents from the Utah Division of Securities' administrative file, including the ALJ's stay order from August 2011. The stay order said nothing about investigating a conspiracy against Andy. Andy kept quoting it as though it did.

On December 14, 2012, a gunman killed twenty children and six adults at Sandy Hook Elementary School in Newtown, Connecticut.

Two days later, at 7:29 on a Sunday night, Andy sent a LinkedIn message to Chris Engelbrecht, the Bountiful gym owner and a named victim and witness in the case against him. The subject line was "Shootings- Steve klemark could have helped!!!" It went to Engelbrecht and to a list of about a dozen others, including Allen Brady and John Steer. It explained that Steve Klemark, Rebecca Dunn, and Andy had invented school-safety technology in 2010 and had tried to donate it to Columbine. "Steve Klemark is like Steve Jobs reborn," Andy wrote. "Steve just vowed to bring down Daryl & Ryion and is consumed with that battle when he could be helping kids be safe." Then: "I am at my wits end so I figured the media would know if this is important right."

It was signed "Elijah of Wisertechnology.com."

Acumen pointed out that Engelbrecht was a witness for the prosecution. Writing to a prosecution witness two months before trial to blame a massacre on the people who reported you isn't something any defense lawyer would recommend. Albright may not have known about it.

❧

In late 2012 Andy unveiled the full vision of his biggest project yet, a religious movement called King Christ, with a website at KingChrist.com, which he'd been promoting since 2011. It would rebuild the Temple in Jerusalem. "What we want to do is we want

to rebuild the temple from the first one, from Solomon to the second," he says in the announcement video. It would be built virtually, in 1080p 3-D, and you'd tour it wearing the Wiser Eyes HD glasses (the ones with the black box over the MyVu label) and holding a Chimera phone, which you'd wave around "like you would a Wii controller from Nintendo Wii." "We're going to rebuild the temple for all of us," Andy says, "and nobody will be able to ever knock it down again." This is the Temple of Solomon we said we'd come back to.

Then, in the same video: "Karma Cause is just moving along great, 48,000 requests just last month guys."

The blog had an expert on that number. It was Daryl Acumen, who'd worked in business analytics since 2000 and in web analytics full time since joining Omniture in 2002, and who later ran search analytics at HP. A "request," he'd explained months earlier, is a technical event. A single page load can generate ten or thirty of them as images, scripts, and style sheets load. Forty-eight thousand requests might mean a couple of thousand page views, and many of those would be bots, and many of the rest would be Andy. In February 2013, Andy proudly posted his own traffic numbers, showing that his seven busiest websites had drawn 6,734 page views combined over the past year. He'd added "WOW!!!"

Acumen responded with the restraint of a man who'd been waiting for this. "I'm not going to break out the ruler and try to get into a 'who's bigger' contest with a sociopath," he wrote. Then he broke out the ruler. The xtagged.co blog had drawn 6,610 real page views in the first twenty-one days of February alone, after excluding 4,905 bot views. Back when he'd owned PartyUtah.com, the site did six hundred thousand to seven hundred fifty thousand page views a month. His audience and Andy's, he explained, weren't the same anyway. "Andy's websites are geared towards himself, his girlfriend, Allen Brady, and the few people in this world who haven't yet figured out he's nuts."

❧

Meanwhile, William Albright was trying to defend Andy.

Albright was an experienced public defender. He had an investigator named Carl Hurst. His job, which he seems to have taken seriously, was to prepare for a jury trial in February. That meant meeting the client, reviewing the evidence, and, as public defenders do, talking with the client about whether a plea made sense. According to Andy, Albright had gotten the State to offer "a better deal than Mr. Holje, two misdemeanors instead of three." Andy turned it down.

What Albright didn't know at first was that his client was recording him.

On January 16, 2013, Allen Brady called Albright and set up a meeting with Andy, Albright, and Hurst. Andy didn't come. Allen did. Two days later, Andy posted an item online titled "Why was Allen Brady threatened!" and emailed it to a list that included Albright's investigator, Allen, Ron Kelsay, the movie producer Brian Doubleday, "MOM2," Steve Klemark at two addresses, Shar Jenkins, John Steer, Andy's aunt, Andy's mother, and a reporter at KSL. It said Allen had been "called to Bountiful 01/17/13 and threatened not to testify." It announced, "you guys can't tell Allen to stop recording especially in Bountiful where they attacked us!" It said "most Xtagged owners say they are writing letters to judge Connors." It brought up Brian Davis, a real estate broker Andy linked to Melissa Garr, and the Garr allegation all over again, now with a new detail: "I recorded Brian Davis laugh about the $100,000 he and Melissa Garr supposedly gave me." It provided a Vimeo link and a password, "because Youtube video was hacked!" And it summed up Andy's view of his lawyers:

"Every time Holjie or Albright have presented so called evidence I shot it DOWN!"

On February 5, 2013, Albright filed a Motion and Memorandum to Terminate Representation. It's one of the most

remarkable documents in the case file. Defense lawyers usually withdraw with a sentence or two about "irreconcilable differences," because they're bound by confidentiality and don't want to hurt the client. Albright said more than usual, because his client had already made it public.

"Mr. Esquivel has recorded conversations I have had with him," Albright wrote. "His recordings include conversations taken place at the courthouse, on the telephone, text messages and include conversations defendant had with my investigator Carl Hurst. Most, if not all, of these conversations and text messages have been posted on the internet. These conversations have also been sent to news outlets, reporters, business associates of Mr. Esquivel and to the case prosecutor, Nathan Lyon."

To be absolutely clear: the defendant in a felony case secretly recorded his own lawyer's privileged advice and sent it to the prosecutor.

Albright cited Rule 1.16(b)(4) of the Utah Rules of Professional Conduct. It permits a lawyer to withdraw when the client "insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement." He used both halves of it:

"I have found the actions of Mr. Esquivel repugnant and obviously have a fundamental disagreement with him recording attorney client conversations and posting them on the internet," he wrote. "The attorney-client relationship has been irreparably damaged to the point that counsel can no longer provide effective assistance."

He attached Andy's "Why was Allen Brady threatened!" email as an exhibit and asked the court to appoint a conflict attorney.

Andy's response to Albright's withdrawal, a few weeks later, was an eleven-minute YouTube rant. In it, he played a recording of one of Albright's messages, in which Albright mentions that KingChrist.com doesn't load, that a link to the Wiser e-cigarette site seemed to lead to pornography, and, with what sounds like

deep fatigue, "maybe Christ isn't that important to you after all." Andy's rebuttal was technical. Albright had typed the address with an extra *s*. "What do you think is going to happen if I take out the S?" Andy asks. The correct site, he said triumphantly, "don't have porn on it." He was going to file a complaint with the Utah State Bar.

❧

The prosecution, meanwhile, had its own scheduling problem. Its lead investigator and its expert were both unavailable for the February trial dates. On January 31, prosecutor Nathan Lyon moved to take the trial off the calendar again, and a pretrial conference was set for February 12.

Andy didn't come to it.

The blog reported that he was in Colorado. His girlfriend had just had their third child. Judge Connors continued the hearing, the blog said, "out of compassion." The defense asked for a month, and the prosecutor objected, citing how many delays there had already been. The judge split the difference and gave it two weeks. He also issued what the blog called a preemptive warrant: if Andy missed the next one, he'd be arrested. Allen Brady, who'd come to court in Andy's place despite having a new baby himself, was told he could no longer appear on Andy's behalf.

The week before, Andy had posted a statement titled "I am Back!" "Trial was cancelled again," it said. "I will not take misdemeanors they are trying to force to save themselves from a lawsuit." It ended with a challenge to the blogger: "You hear that Daryl Acumen I will never quit until I see you and your mother Rebecca Dunn take the stand at trial!!!"

Acumen answered the next day.

"Personally," he wrote, "I would give my left arm to be able to testify against you at trial."

Then, because he couldn't resist: "Maybe you'll land a guest spot on Dr. Phil."

CHAPTER THIRTEEN

All My Witnesses

The audio of the February 26, 2013, pretrial conference survives because Andy's opponents posted it online. Andy, who recorded everything else, apparently had no use for it.

It's thirteen minutes long. It opens with the judge confirming that Andy's public defender has been allowed to withdraw, that Andy has declined a new one, and that he hasn't filled out the financial affidavit he'd need to qualify for one. Then Judge Connors turns to the defendant.

"Mr. Esquivel, is it true that you wish to represent yourself in this forum?"

"Yes, sir," Andy says. "I was here ready for trial today. Yes, I just want my trial ready to go."

"All right. You're not a lawyer, is that correct?"

"I'm not, but I'm innocent, one hundred percent."

The judge goes through the standard advisement. It's a careful, almost gentle speech that judges give to people who are about to do something unwise. The legal process "is generally not an easy process for non-lawyers to navigate." He'll be "putting yourself at a significant disadvantage." He has no legal training? "No, sir." He'll be required to follow the rules of procedure, the same ones lawyers follow? "Yes, sir." The judge finds that he's knowingly and intelligently waived his right to counsel.

"What's your request, then?"

"Trial," Andy says. "I just want my trial."

How long would it take? Andy estimates one day, "but I'll say two." Someone at counsel table, given who'll be representing the defense, suggests the court "better plan on three." The court sets a three-day jury trial for June 12 to 14, slotted behind another case, and a final pretrial conference in May. Then the prosecutor raises the motion for reciprocal discovery, the one the court had granted the previous July and that Andy had never complied with. The court sets a hard deadline of March 26. Andy will give the State his evidence, his witnesses, and his exhibits by then, or he won't be able to use them.

Then Andy asks a question.

"If I may ask, do I have permission to know why we couldn't go to trial today?"

The judge explains, patiently, that today was only ever a pretrial conference.

"Today was supposed to be trial today," Andy insists. The twenty-sixth "was supposed to be trial. All my witnesses—"

It wasn't. The February trial had been taken off the calendar weeks earlier on the State's motion, something Andy himself had announced online in "I am Back!" The blog noted who was actually in the gallery that morning. All of Andy's witnesses came to two people: Allen Brady and an unidentified woman. Shar Jenkins wasn't there, and neither were John Steer, Steve Klemark, or Ron Kelsay, the man with the camera.

One person who was there, sitting quietly through the hearing, was Dakota Iverson. He was the high school kid who'd worked at Xtreme Sushi for stock that never came. He'd found the blog, and he'd started coming to Andy's court dates.

Afterward Andy made a video on the courthouse steps introducing a new star witness. This was Jeff Parker, whom Andy described as his "first partner." Andy said the court wouldn't tell him who had asked for the delay. In another video around the same time he responded to Iverson's appearance at the hearings

with the basketball story again: the kid, he said, had stolen his two-thousand-dollar basketball.

"A $2,000 basketball Andy?" the blog wrote. "Seriously?"

❧

There was something the blog's readers didn't know about how Andy ended up at that table alone.

On February 9, two and a half weeks before the hearing, the blog had reposted Andy's "I am Back!" announcement, with its vow that he would "not take misdemeanors." Acumen answered it with what looked like the usual mockery. Since Andy was so eager for trial, "why don't you save the court some time and represent yourself instead of waiting for the new public defender to come up to speed on your case," he wrote. "Better yet, just plead GUILTY and get it all over with!" Three days later he added a promise. Once Andy filed the forms declaring himself indigent, so he could get a new public defender, the blog would post them "as evidence that Andy is indeed broke."

It wasn't only mockery. Acumen and the victims had a worry they never put on the website. If Andy took a deal, he might walk away with a misdemeanor and probation. What they wanted was a trial. And they'd learned that the surest way to keep Andy from doing something was to predict, loudly and in public, that he was about to do it. Every "Andy's gonna plea out, man," every "Squeal, Andy, squeal!", seemed to push him one step further from whatever offer was on the table.

On February 26 Andy told the judge he'd represent himself. He still hadn't filed the forms.

A few weeks later, Acumen explained it privately to his lawyer, Adam Platt. "The whole 'Andy's gonna bitch up and plead Guilty' ruse worked," he wrote, "and so did the 'as soon as Andy files his indigent paperwork to qualify for a public defender I'm gonna post it online' ploy. Now he's going to trial without legal

representation, all because I posted some vague challenge online. ;-)"

Platt had thought the bait was too obvious. "But, then it occurred to me," he wrote back, "that Andy is dumber than most."

❧

On March 21, 2013, exactly a year after the preliminary hearing, Allen Brady walked into the Davis County Attorney's Office and delivered what Andy called "my bundle of evidence Xtagged, Inc. papers etc." It was 502 pages.

Andy picked the date on purpose. "Allen Brady told me that he delivered my bundle of evidence," he wrote to the prosecutor, "03/21/2013 exactly one year after the plaintiffs committed massive perjury on the stand." The email went to prosecutor Nathan Lyon, the defense investigator, Steve Klemark, John Steer, Shar, his mother, his aunt, a "Chris E." (one of the victims), and Daryl Acumen's lawyer, among others. It attached the 2009 cashier's check to Logan Laws, Steve Klemark's employee ID from the Denver Police Department, and the "World Peace!" email he attributed to Ryion. It accused Ryion of racism, brought up "extortion by Ryion & Kyle," and said Andy would ask for a change of venue because of "extreme prejudice."

It also included this sentence, which the prosecutor would soon quote back to the court:

"Please keep in mind Mr. Lyon that the evidence bundle I gave you does not have evidence from all 11 other Xtagged owners until trial they don't trust you guys because of Holje & Albrights lies but they will be at trial with videos."

You don't need a law degree to see the problem. The point of reciprocal discovery is that you can't hold back evidence until trial. Andy had just told the prosecutor, in writing, that he was holding back evidence until trial. On April 8, 2013, Lyon filed a Motion to Compel Discovery. It noted that Andy had never responded to the original order, that the 502 pages "lacked a

witness list, relationship disclosures and an exhibit list," and that the defendant had announced his intention to keep his real evidence secret. Exhibit B was Andy's email.

It was the second time an email from Andy had ended up as an exhibit in a court filing. It wouldn't be the last.

The same week, Andy posted a question on his blog that seemed to him unanswerable: "WHY are the plaintiffs paperwork called securities but not Ladd's, Allen's, Jeff's, etc." In other words, if everybody had the same paperwork, why were only three people victims? The answer is that only three people had pressed charges. Acumen didn't answer the question directly. He just encouraged Andy, warmly, to keep asking it.

❧

In May, under orders from the court, Andy finally produced a witness list. It ran to thirty-odd names, each numbered with a code Andy explained, in his last entry, as a joke for the media. The prosecutor attached it, verbatim, to a motion in June. It's worth reading as a document of how Andy saw the world, because every name on it has a story, and each story is about how someone else had the same deal as the victims.

At the top was a header: "FYI- All on this list was offered to become co-founders & co-owner of Xtag."

Then the names. Daryl Acumen was first, as the man who started "this conspiracy with Ryion." Next came Jason Webb, the patent attorney, and Saeed Kermani, Andy's old boss at Comcast. Then a man who had supposedly been "paid back $10,000." Logan Laws was there, along with Steve Klemark ("Steve Bought Xtagged in 2009"), Shar Jenkins, Allen Brady, John Steer, and Jake House, who had "ran our Bountiful Sushi shop with John Steer." Jeff Parker was the "first partner." Daris Garner was the "third partner." A young man the blog described as a local rapper had gotten "1% ownership free for all the media Dre brought to Xtagged." So had a man named Zac, "for the same reason." Then

there were Brian Davis, a real estate broker, and Melissa Garr ("Mel & Brian 3% ownership of Xtagged"), and Andy's aunt, "co-OWNER of Xtagged since 2008," along with her son, an uncle, and another relative. Two BYU professors appeared, one of them identified as "the $700,000,000 man." Rebecca Dunn was listed as "Xtagged.com C.E.O 2008-2011." Andrew Couch of Bump.com was there too, along with Leonard Martinez, Ron Kelsay ("he has evidence against Mr. Holje & Mr. Lyon"), and a member of Allen Brady's family.

Two entries stand out.

The first was Kirk Yuhnke, the Fox 13 reporter who'd covered SingleAndDating.info in 2007 and later moved to Fox 31 in Denver. "My first prime time interview for my invention of car tags," Andy wrote. "I offered Kirk Yuhnke 1% ownership of system."

So by Andy's account, he'd offered the reporter covering his story a piece of the company.

The second was Jonathan King, the former FBI agent who worked for the internet-safety nonprofit i-SAFE. Kyle Cluff had spent months arranging a meeting between King and Andy. "I gave him 40% ownership of Xtagged," Andy wrote. In a video he made in 2011, he'd put it as an argument for his innocence: "So I'm a scam artist but I'm sitting there with an FBI agent trying to give him 40%." Then, as if he were a lawyer resting his case: "Okay guys, why would a scam artist go to an FBI agent? Does it make sense?"

Add up the percentages Andy said he'd given away over the years. There was forty to an FBI agent, ten to Georgia Brady, six to his aunt, three to Brian Davis and Melissa Garr, and one each to Kyle, Ryion, a TV reporter, a young man the blog called a rapper, a guy named Zac, and others. On top of that came fifty-one percent to the DMV and, in other tellings, fifty-one percent to United Health Care. (The fifty percent to Karma Cause was of Wiser Technology, a separate imaginary company.) That's well over a

hundred percent of Xtagged, Inc., a company that had never been incorporated in Utah.

The list closed with Andy's own paragraph. "I had 40,000 members of http://www.Xtagged.com," it said, "the trial will be full of my people." It repeated the story of the "S.E.C. JUDGE" who had promised in August 2011 to "START MY OWN INVESTIGATION." It added: "THE MEETING WAS RECORDED YOU CAN GET COPY!!!" It mentioned his "multi-million $ lawsuit against www.Bump.com." And it ended: "All my inventions can be found at http://wisertechnology.com/Home_Page.php God Bless Us All, Amen."

The State's motion in limine, filed June 14, 2013, asked the court to exclude every witness on the list but one. The prosecutor had reviewed the links Andy provided, and his descriptions are a sort of formal film criticism. The videos "essentially consist of the Defendant making homemade movies with a digital camera." One showed "a man named Allen holding an Xtagged folder claiming Xtagged is a real company." One was "the Defendant describing a random fight where twenty men attacked the Defendant and John Steer." One was a thirty-five-minute video of "the Defendant, Jake House, and Steve Klemark, sitting around a table discussing various issues." Another was "about a bottle the Defendant designed."

The only witness the State didn't object to was Logan Laws, an actual investor, whom the blog described as "on deck to testify for the prosecution."

Of all the "co-owners" and "partners," the one name the State had no problem with was the teenage missionary whose father had forced a repayment.

❧

In the middle of all this, there was child support.

Andy had at least two children in Utah, born years before Xtagged to a woman he never married. Utah's Office of Recovery Services had been trying to collect support for them for a long time. It had started getting somewhere in 2011, and that was partly Daryl Acumen's doing. He'd gotten in touch with the children's mother and helped track down where Andy was living, so that Colorado could serve him with paternity papers before the children turned eighteen and the State could establish what Andy owed and start collecting it. The blog never made much of this. It was one of the few things Acumen did in the whole saga that had nothing to do with his own mother or with Andy's investors, and everything to do with two kids whose father was busy selling percentages. By the end of 2012 the arrears were about twenty thousand dollars, and a Colorado court in Jefferson County had opened its own enforcement case. On April 3, 2013, Andy appeared at a hearing there, and the blog, which kept close track of these proceedings, reported what happened.

The court calculated his obligation as though he earned minimum wage, because it could find no record of any recent employment. It ordered him to pay $320 a month in current support plus $50 a month toward the arrears that had built up since November 2011. Andy argued that the five thousand dollars he'd given the children's mother in 2009, which the blog believed came from Ryion Butcher's investment, should count. The court said no.

The judge, by the blog's account, then asked him a simple question: "Are any of these projects generating money?"

Andy answered, "No."

It may be the most honest thing he ever said to a court. Xtagged was going to be worth a billion dollars, Wiser Technology had been sold six times, and Karma Cause was "blowing up" with churches. None of it, when a judge asked, had made a dime.

The court told him to get a job. Not long afterward, Andy posted a photo of a money order with the amount blacked out,

captioned with a jab at the twins' mother, and announced that he was on his way to see his twins for the first time in five years. The blog checked with Utah ORS. The money order was for fifty dollars.

By a follow-up hearing in June, Andy still hadn't complied, and the Colorado court reportedly sentenced him to sixty-four hours of community service. His answer, as reported, deserves to be on a plaque somewhere:

"But your honor, I'm moving to Utah on July first, so I can't do no community service."

The court gave him thirty days to prove he'd left Colorado. He did leave. By August his address on court filings was a house in Kearns, Utah.

❧

On August 7, 2013, Andy appeared before Judge Connors for a motion hearing. He'd filed a discovery motion of his own, demanding "full plaintiff discovery of witness & evidence." He had also filed a motion to dismiss. It used a Texas-style caption ("TO THE HONORABLE JUDGE OF SAID COURT") and signed "Self-Attorney." It quoted the "SEC judge" again and said: "I am 100% innocent of these charges."

At the hearing, Andy said he was now ready to take a lawyer after all. The prosecutor reminded the court that Andy had previously refused a second public defender and called the PD's office part of a conspiracy. "His conduct in the state's opinion is destructive and it's delaying tactics," the prosecutor said.

At some point, as the blog reported from the audio, Allen Brady, sitting in the gallery, put his hand up.

"Mr. Brady, put your arm down," Judge Connors said. Then, to the defendant: "Mr. Esquivel, I don't know how many times we need to have this discussion. You cannot just continue to represent yourself and ignore all of the court's rules!"

Andy offered the court a deal. "If you give me the discovery," he said, "then I'll hire my own attorney."

To support his request for appointed counsel, he filed a financial affidavit. It said he hadn't worked since June 2009. The most he'd ever made was twelve dollars an hour. He had no assets and no car, and he paid no rent. His wife didn't work. (The blog insisted he'd never married; the court papers called her his wife.)

The court started the process of appointing counsel and kept the case on track for an October trial.

The new public defender was C. Markley Arrington of North Salt Lake, the lawyer who'd been in the courtroom the day Andy changed his mind in August 2012. Andy agreed to accept him, according to the blog, on one condition: that Arrington stop urging him to take a plea.

What Arrington did instead surprised everybody.

On October 22, 2013, at a pretrial hearing, Arrington asked the court to continue the case for a reason no one had raised before. The court's note reads: "At the request of defense counsel, this matter is continued to 1/7/2014 to allow the defendant to have a mental health evaluation completed to determine if defendant is competent to stand trial." The trial date stayed on the calendar for the moment.

Andy's own lawyer had looked at him and asked the court to find out whether he was competent.

For almost two years the blog had called Andy delusional, and it had meant it as an insult. For almost as long, it had suspected that Andy might try to fake incompetence to get out of trial. Now his own defense attorney was raising the question in open court, and nobody was faking anything.

"Irony," Acumen wrote, "this is EXACTLY what we've been trying to say for years!"

Then, in the flat, final tone of a man closing a file: “When your own defense attorney states in court for the record that you’re nuts, it’s time to pack up shop and go home.”

Andy didn’t go home. He was about to go somewhere else entirely.

PART FOUR

Restoration

CHAPTER FOURTEEN

Creative Extremist

In Utah, as in most states, the law says you can't put a man on trial if he can't understand the proceedings or help his own lawyer. Once a defense attorney raises a "bona fide doubt" about competency, everything stops until doctors weigh in.

That fall Judge Connors signed an order finding exactly that. "The specific allegations contained in the petition," it said, "raise a bona fide doubt as to the defendant's competency to stand trial." Andy was to be examined by at least two mental-health experts designated by the state. They'd evaluate the standard list: whether he understood the charges and the possible penalties, whether he could tell his lawyer relevant facts, whether he could make reasoned choices about strategy, whether he grasped the adversarial nature of a trial, whether he could behave appropriately in a courtroom, and whether he could testify relevantly in his own defense. A status hearing was set for January 7, 2014.

Read that list with the previous thirteen chapters in mind. It's a little uncomfortable, because the blog had been running its own competency evaluation for two years, and it had been laughing.

The first evaluator was a psychologist named Patrick Panos. To get the interview done, according to the prosecutor, he had to go to Andy, at a family home, and do the evaluation there. His conclusion, as defense counsel later summarized it in court, was that Andy "does suffer from some delusion as well as possibly bipolar." Panos found him not competent to proceed.

The second evaluator was John Malouf, Ph.D. He couldn't get Andy on the phone. On December 28, 2013, he wrote directly to Judge Connors:

"Beginning on December 10, 2013, I have called the numbers I have for Mr. Esquivel and have left a number of messages for him to call me... To date, I have not received a return call from Mr. Esquivel." Even if Andy called right away, Malouf added, "I will be unable to interview him and complete the evaluation by January 7."

So on January 7, 2014, the parties came back to Judge Connors's courtroom with half an answer.

The audio of that hearing survives. It's six and a half minutes long, and it may be the most important recording in this whole story.

The prosecutor goes first. He sounds like a man who has been patient for a long time and has reached the end of it. "The conduct that we're dealing with is five years old," he says. "The case itself is three years old." They held a preliminary hearing nearly two years ago and have been trying to get to trial ever since, "and we've been stymied by defendant's behavior. He's failed repeatedly to meet with his lawyers, to follow through with his commitments." Now he has failed to meet the second evaluator. "The defendant has a right to a speedy trial, but so does the state." His request is simple: take Andy into custody so the evaluation can actually happen.

Arrington, the public defender, responds carefully. Dr. Panos has found delusions and possibly bipolar disorder, he says, "and I think possibly that's part of the problem of why we've had

communications issues." He lays out the court's options and submits the matter.

Then the judge turns to Andy. He's mostly interested in one thing: why haven't you been able to reach Dr. Malouf?

Andy doesn't answer that question. He answers a different one, the one he'd been answering for years.

"I filed motions and they never get put in," he says. And then: "I'm not crazy. I'm never gonna take the misdemeanor plea that I was offered two years ago."

The judge tries to interrupt. "Hold on a second—"

"I'll go to jail right now to prove it, sir. I'm going to go right now."

The judge answers almost immediately, like a man who has just been handed exactly what he needed.

"I'll give you that opportunity," Judge Connors says. "I'll give you that opportunity. Okay. I will give you that opportunity. I'll have you taken into custody until Dr. Malouf has had an opportunity to interview you."

He strikes the trial date. Andy keeps talking. His motions are right there, he says, if anyone would look at them. "I was called a liar in front of the whole world." A doctor, he says, told him "on Saturday" that he wasn't crazy. Then, as they take him: "I was threatened in this jail, too, Your Honor. I was threatened in this jail before." And, as the hearing ends: "I want protective custody! I've been threatened."

The order went to the Davis County Jail the same day: "IT IS HEREBY ORDERED that the above-named defendant be held in custody without bail until further order of the Court."

Daryl Acumen posted the audio. His commentary was brief: "I was half expecting him to spout out that he was Napoleon or something."

Andy had volunteered for jail, and the judge had taken him up on it.

He'd spend the next several months there, and he didn't go quietly. He wrote letters to Judge Connors, some in block capitals and some in handwriting so frantic that even modern OCR software can't make sense of it. In one, from early 2014, the readable fragments circle around a single idea. On Martin Luther King Jr. Day he'd marched around the jail yard all day, and he had "earned the name Creative Extremist." It's a phrase from Dr. King's "Letter from Birmingham Jail," where King accepts the label "extremist" and asks what kind of extremist one ought to be. Andy had apparently come across it somewhere, and it fit him. He'd been called many things over the years. *Creative* was the one he was proudest of. Elsewhere in the letter he explained that he'd been "labeled" a creative extremist years before, in 2007.

Later that winter, in early March, his partner posted a video to the Wiser Technology site. It was a recording of a phone call from the Davis County Jail, played on speakerphone. In it, Andy says he's in jail voluntarily. He asked to go, he explains, because, he says, the prosecution has postponed his trial six times, and he's being sent for evaluation so the judge can prove he's sane. He's lost weight. Jail "isn't so bad." At one point another inmate, someone called "Boss," breaks in about a fight Andy had been in.

Acumen watched it with what reads like genuine astonishment. "I never thought I'd live to see the day," he wrote, "when Andy Esquivel is posting psychotic rants from behind bars."

Two years earlier, in March 2012, he'd predicted on the blog that Andy would eventually claim "it was all staged for a documentary about how an innocent man can get charged with fraud with an insider's look at life behind bars." That had been a joke. Now Andy was providing the insider's look himself.

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The two evaluations were finished by February. On February 11, 2014, everyone came back to court. This time Andy arrived in custody.

Arrington wasn't there. A colleague, a public defender named Julie George, stood in for him. The prosecutor reported that both evaluators now agreed Andy was not competent to proceed. The State was willing to stipulate to the reports, and it asked the court to commit Andy for "restoration of competency," the formal term for treatment intended to get a defendant well enough to stand trial.

George then raised a complication. A motion to dismiss had been filed the previous July, she explained, "through the assistance of an individual that is a business partner of his." And Andy had signed two more he wanted filed that day. One asked for transcripts. The other asked to convert the case from a jury trial to a bench trial, an idea Andy had apparently taken up.

The business partner, according to the blog, was Allen.

"He states not drafted because that's illegal," George told the court, "but filed this motion on behalf of Mr. Esquivel." She'd spoken with the business partner in the hallway that morning. "I've explained to that gentleman today it's illegal to act as an attorney if he is not one." Allen had insisted that Andy wrote the motions himself and that he had only filed them. The court ruled, as courts do, that a defendant who has a lawyer can't also file his own motions. Everything would be held until competency was resolved.

The blog later claimed, with some pride, that the bench-trial idea had come from the blog itself, from Acumen's commentary on how a jury trial might go. "Your welcome for the free legal advice fellas," he wrote.

Judge Connors reviewed both reports again on the bench. "Both of them clearly find the defendant to be incompetent at this point in time and unable to assist in connection with their own representation," he said. Dr. Panos had recommended admission

to the Utah State Hospital for treatment. The judge granted the State's motion.

Then Andy, who for two years had refused misdemeanor offers relayed by two different lawyers because he was innocent, made an offer of his own.

"I'll take the misdemeanor plea with no jail time then," he said.

George explained, gently, that this wasn't an option right now. With those reports on the record, nothing could go forward, "be it misdemeanor, be it diversion, be it felony or trial." A man who isn't competent to stand trial isn't competent to plead guilty either.

The judge set a review in six months and told Andy he was welcome to contact Mr. Arrington anytime.

"He lied last time," Andy said. "I don't trust him."

"Sir," the judge said, "you're going to have to deal with Mr. Arrington at this point in time."

❧

The written order came two weeks later. It's titled *Order of Commitment to the Division of Substance Abuse and Mental Health for Treatment to Restore to Competency*. Its findings of fact are worth reading slowly. In the flattest possible language, they describe the inside of the story this book has been telling from the outside.

"The Defendant suffers from a substantial mental illness."

"The Defendant does not comprehend and appreciate the charges or allegations against him."

"The Defendant does not have the capacity to disclose to counsel pertinent facts, events, and states of mind."

"Defendant cannot engage in reasoned choice of legal strategies and options."

"Defendant is not capable of manifesting appropriate courtroom behavior."

"The Defendant is not capable of knowingly and intelligently waiving his right to counsel."

And then: "The Defendant is refusing to take any psychotropic medications that may improve his delusional thinking and confused state."

Delusional thinking. It's an odd thing to find in a court order after everything else in this book. For years the question about Andy Esquivel had been whether he was a con man who knew exactly what he was doing or a man who believed every word of it. The blog had held both views at once, sometimes in the same paragraph. His victims had wondered. Rebecca Dunn had wondered in a hundred thousand characters. Now two psychologists and a district judge had weighed in, at least for that moment in February 2014: the man couldn't help his own lawyer because he couldn't separate what was real from what wasn't.

That doesn't make the money any less gone, and it doesn't erase the fact that the federal court found him "fully competent" in 2003, or that he'd go on to sign a plea form six months later stating he was "free of any mental disease, defect, or impairment." Competency isn't innocence. It's a snapshot. But it's a snapshot worth looking at for a long time.

❧

The order said the commitment should happen promptly. In practice Andy waited in the Davis County Jail for two more months, because there was no bed.

In April he wrote to Judge Connors in block capitals. "I am writing this letter to let you know the fact that I am still in the Davis Co. Jail, some sixty days after you ordered my immediate transfer to my 30 day evaluation." He'd called the transport office, and they told him they didn't know about any order. He hadn't let his children visit him at the jail, he explained, because he "did not feel it appropiate for my children to see me through a monitor." He asked for a status report. "My wife has her hands full and is anxious to get me home to my family."

On April 16, a court clerk logged a phone call: "Clerk received a call from DEF's spouse and family member asking why DEF was not transported to the Utah State Hospital yet… DEF is on the waiting list, but he is #20 on the list."

That's where Andy's life had come to rest in the spring of 2014: number twenty on a waiting list.

He was moved to the State Hospital in Provo sometime in May. By his own later count he'd been held 119 days in jail first.

❧

What happened at the hospital we know only from Andy, and he told the story years later on Facebook, in a post addressed to the Attorney General of Utah. He said a clinician he called "Dr. Z" gave him tests and he "PASSED." He described the hospital director as corrupt. And he said that on May 30, 2014, inside the Utah State Hospital, he invented something.

It was a pill bottle. It locked and unlocked through a smartphone app and dispensed one dose at a time, so a patient couldn't take too many. He came up with it, he said, talking with a fellow patient who'd been hospitalized after an overdose. The design was inspired by his grandmother Ofelia's Pez dispensers. He protected the idea with what he called a "poor man's patent," a sealed envelope mailed to himself from the hospital, postmarked as proof. When he described the idea, he said, the other man's "eyes went BOOM a pill bottle like that would make millions."

He shared the motto that had inspired him, too. "'Desperation breeds creativity,'" he wrote, and the other patient had asked, "'What is that DBC?' BINGO! I told him it's the mother of invention."

The blog reposted it in 2018 under the headline "Andy Esquivel invents lockable Pez bottle dispenser for dangerous meds (while in a mental institution)." Its only comment was to call it "another one of his silly inventions." Nothing more was needed.

❧

At an August 12, 2014, hearing, the court took up the hospital's evaluation. Andy had been restored to competency.

A week later, on August 19, he signed a *Statement of Defendant in Support of Guilty Plea and Certificate of Counsel*. It's a standard Utah form with handwritten additions. He pleaded guilty to Counts Two and Three, securities fraud, third-degree felonies. In exchange the State dismissed Count One, the second-degree felony, the one that had depended on the Cavalier.

The factual basis, in the version later quoted by the blog, put in writing everything he'd spent six years denying:

"[I] represented that Xtagged was a registered LLC, that Xtagged was patented & the Dept. of Motor Vehicles had authorized Xtagged to communicate and access their databases. That MySpace, Michael Jackson & Google were interested in purchasing Xtagged & that in near future Xtagged would become a public corporation."

And: "A records search showed Xtagged was never registered in the state of Utah and no patents held in it's name."

Michael Jackson. Of all the names in all the pitches, the one that made it into the plea statement was Michael Jackson. Whether that was a transcription slip for Michael Jordan or one more celebrity the record hadn't caught until then, nobody ever said.

Above his signature was the printed boilerplate every defendant signs: "I believe myself to be of sound and discerning mind and to be mentally capable of understanding these proceedings and the consequences of my plea. I am free of any mental disease, defect, or impairment."

He was released on his original ten-thousand-dollar bond. He went home and posted on his blog that the whole thing was connected to the recent indictments of two former Utah attorneys general.

❧

Sentencing was October 7, 2014, before Judge Connors.

For each count he received an indeterminate term of up to five years in the Utah State Prison, suspended. The two terms would run concurrently. He'd already served more than two hundred days in jail and the hospital, which more than covered the ninety-day jail term the plea contemplated. He'd serve thirty-six months of probation supervised by Adult Probation and Parole. There'd be no alcohol and no drugs, with random testing. He couldn't go into bars or clubs, which for a man whose career had begun in the nightlife business was its own kind of sentence. He had to get a job and keep it. He had to provide a DNA sample. He had to get a mental health evaluation and complete any treatment it recommended.

There was an eight-hundred-dollar fine and a five-hundred-dollar public defender fee. And there was restitution, broken out in the minutes victim by victim:

"$6000.00 Plus Interest / Pay in behalf of: KYLE CLUFF"

"$5000.00 / Pay in behalf of: RYION BUTCHER"

"$2000.00 / Pay in behalf of: CHRISTOPHER ENGELBRECHT"

The total was thirteen thousand dollars. The plea deal included one more thing. If Andy completed probation, the prosecutor would have no objection to reducing the two felonies to Class A misdemeanors.

In other words, if he paid back thirteen thousand dollars and stayed out of trouble for three years, he'd end up more or less where Michael Holje had tried to put him on the afternoon of March 21, 2012, before Kyle Cluff took the stand.

Andy made a video after sentencing. He'd taken the plea, he explained, only to keep Ryion, Kyle, and Chris from making billions suing Bump.com. In a later video he gave a different reason: the hospital wouldn't let him see his children, and he wanted to go home.

Daryl Acumen wrote what he called the "Final Word" on November 12, 2014. It had the satisfaction of a man finishing a

long job and the slight disappointment of one who'd been looking forward to the trial:

"It's been a long road, but Andy Esquivel was finally brought to justice – in no small part BECAUSE OF THIS WEBSITE!!!" Only three victims had pressed charges, he noted, "representing a little over 10% of the total money consumed by his various scams." He'd hoped for a humiliating public trial, he admitted, but there was "always Castle and The Blacklist for entertainment so I guess I don't mind." He ended with a list:

"Steve Klemark, Allen Brady, Lasharielle Jenkins, and Ronald Dean Kelsay must all feel really stupid right now."

It was the Final Word. It wasn't final. Andy Esquivel still owed thirteen thousand dollars, and for a man who'd once claimed to have turned down a hundred million dollars from MySpace, thirteen thousand dollars was going to be the hardest money of his life.

CHAPTER FIFTEEN

Superficially Charming

Probation is designed for people who want it to end. You report to your officer, take your drug tests, get the evaluation, keep the job, and make your payments. After thirty-six months, if you've done all that, the State lets you go. In Andy's case it would even agree to turn his two felonies into misdemeanors. The incentives are obvious, and they're supposed to work on anyone.

Andy Esquivel was not anyone.

He reported to Adult Probation and Parole on October 24, 2014, and signed his probation agreement. That same month he asked to transfer his supervision to Colorado. In January 2015 he withdrew the request and said he'd stay in Salt Lake. In March, AP&P sent him to a treatment center for the mental-health and substance-abuse evaluations his sentence required. In June he told his officer he'd completed them. "However," the officer wrote, "he could not provide any proof." On July 7, 2015, he tested positive for THC. He explained that he'd been taking cannabis oils. He went to one employment workshop and skipped the follow-up. He gave AP&P an address at his parents' house in Kearns, and on a home visit a family member told the officer that Andy "does not actually stay" there.

He also didn't pay. In May, August, and November of 2015, he made no payments at all toward his supervision fees, his fine, or his restitution. By the end of the year, fourteen months into

probation, he'd paid $379.25 of the $13,000 he owed Kyle, Ryion, and Chris.

His supervising officer was Roman Hentish. On December 29, 2015, Hentish filed a progress report with the court asking for a warrant. Most of it is the usual checklist of a failing probation. But Hentish added something that probation officers don't usually put in writing, a few sentences of plain description that read, after everything in this book, like the summary at the end of an intelligence file:

"He stated to AP&P he does not agree with his judgment and sentence and wants to drag his repayments out as long as he can. It appears he is following through with his intentions to spite the Court, not take responsibility for his crimes, not make his victims whole and further victimize them."

And:

"Mr. Esquivel demonstrates a disregard for the feelings of others and a reduced ability to experience guilty shame. He is superficially charming and has shown a disregard for rules. He victimizes others to satisfy his own needs and expresses rationalizations for law violations."

You could read those five sentences to Kyle Cluff, Ryion Butcher, Rebecca Dunn, Georgia Brady, William at KCD-tech, or Dakota Iverson from the sushi restaurant, and every one of them would nod.

Hentish recommended a $25,000 cash-only bench warrant. Judge Connors signed it on New Year's Eve.

"'Cash Bail,'" the blog explained helpfully, "means that Andy cannot get a bail bond for his release. He must come up with $25,000 in cash in order to stay out of jail."

❧

He was arrested on February 1, 2016, just before noon, and booked into the Davis County Jail.

Two weeks later, on February 16, he was back before Judge Connors. His attorney denied all of Hentish's allegations. Andy had brought supporters: a man he described as his employer, a former foreman, and a family member. His employer, Andy said afterward, "had all my receipts." The judge released him on his own recognizance and set a sentencing date on the violation.

Andy's account of those two weeks, posted soon after, is classic Andy. "Daryl Acumen & my Probation officer Hentish… made up lies to have my probation violated," he wrote, "so I had to spend 14 days in Davis county." When he walked out, he said, "as I looked back they all were waving at me." And: "Judge Connors released me immediately and made new court date for March 08, 2016 you all think Daryl Acumen will be there, LOL."

He hadn't wasted his time inside. In jail, he announced, he'd launched a new venture called JudgeCon.com. It would be an app where "on one side you download Judges orders & the other side the Cons compliances," confirmed by text or Bluetooth, so that "your probation officer can't lie anymore, thank you God." He'd also founded ConsCanChange.org, "from Davis county jail payphone," and bought the domain AddictsCanChange.org for a fellow inmate. Three more apps were in development: "The tree of Life," "Drug myself," and "Pure."

"Andy then launched a follow-up app over the payphone in jail," the blog reported, deadpan.

His mission statement for this period came in one long sentence: "Would you not run into a burning building to grab all the technology data that would save millions of lives before the devil burnt them out of existence, I DID."

❧

The sentencing on the violation was postponed five times over the spring, mostly at the defense's request. Meanwhile Hentish kept filing reports. In March, April, and May of 2016, Andy failed to report to AP&P as required. "Defendant refuses to report as

required to maintain accountability," Hentish wrote. On multiple home visits, "Mr. Esquivel has never been found at this residence." His characterization had changed a little: Andy "appears superficially charming and has shown a certain contempt for AP&P by not cooperating as directed."

The reports also contained a fact that the blog seized on. According to its summary of them, Andy had told AP&P outright that he intended "to drag out repayment as long as possible so that he can potentially get out of it." "What kind of idiot," Acumen asked, "actually says that to an appointed officer of the court?"

There was one piece of good news. Between January and May 2016, Andy made payments. By the end of May he'd paid $1,590.

In June, Hentish filed a new violation report. If Andy was found in violation, AP&P recommended moving him to court probation and closing its own file. Judge Connors issued an order to show cause. At the evidentiary hearing on July 12, 2016, defense counsel reported that Andy was "complying with the terms of his probation conditions." He hadn't paid in June, but he'd brought a hundred dollars to court. AP&P, apparently worn out, withdrew its affidavit. The court converted Andy's probation from AP&P supervision to court probation and set his payments at five hundred dollars a month, starting August 15.

Put plainly, Adult Probation and Parole gave up on him. "AP&P," the blog wrote, "dropped him like a hot potato."

❧

From here the story becomes a matter of arithmetic, and the blog, run by a man who did numbers for a living, kept careful books.

By September he'd paid $450 under the new schedule, and then the payments mostly stopped. By November 2016 he was $800 behind. The court's collections department sent a letter warning him that "The total due on this case is $13395.17. You are now $800.00 past due on your payments," and that he could face a warrant, extra fees, and a suspended driver's license if he didn't

pay. His last attempt at a payment, the blog reported, had bounced.

"(dude, who bounces a check to the court?)" Acumen asked.

In response, Andy filed something with the court. It was a bundle with the collections letter, annotated by hand ("The court knews this is not my address"), plus his unemployment-benefit printout from Utah's Department of Workforce Services, plus MoneyGram receipts. It also included, for reasons nobody explained, a printout of the blog post mocking him for bouncing the check. Someone had written on the printout. It was the only time the website showed up inside a court filing.

The unemployment printout told its own story. Each week Andy was entitled to $231 in benefits. Each week, $115.50 was deducted. That figure matches, to the penny, the weekly drop in his child-support arrears in the ORS records for his two oldest children. Half his unemployment was going to the children he'd had more than two decades earlier, who were now twenty-one. Their mother was unlikely ever to collect everything she was owed. "At least I was able to help her get something," Acumen said.

On January 10, 2017, he missed his review hearing. The minute entry: "The Defendant is not present and is $1550 past due on his financial obligations. The Court orders a $5000 cash only bench warrant for his failure to appear."

"He has to cough up $5,000 in dead Presidents," the blog wrote.

Andy responded on Facebook and in the blog's comments. He was broke, he said, living on unemployment, half of which went to child support. He also said he worked full-time graveyard shifts, which was why he'd missed court. Acumen pointed out the contradiction in one line: "Andy, you can't have it both ways. Either you have a job or you don't."

On January 17, 2017, Andy appeared, the warrant was recalled, and his attorney made a pitch. Andy's boss was going to help, the attorney said. Andy expected to pay off the entire balance within thirty to forty-five days.

The entire balance was $13,203.71.

The court gave him forty-two days. The blog's reaction, typed out letter by letter for emphasis, was: "S-T-U-P-I-D-!-!-!"

"Here's a guy," Acumen wrote, "who's crying to ORS because he can't afford to pay $460 a month in back child support, has no verifiable employment, doesn't own a car (and doesn't even have a valid Utah driver's license, so he couldn't drive one if he did), lives off of his girlfriend, and yet he's promising the court that he can come up with $13k in a little over a month?" (The $460 was the figure Andy's own attorney had just given the court for what ORS was garnishing.) On February 28, he predicted, Andy would have to explain why he'd lied about being able "to cough up a wad of cash thick enough to choke an elephant."

On February 28, Andy came to court without the money. He paid $800. His attorney acknowledged that the full payoff "has not happened" and said about eleven thousand dollars remained. According to the case log the blog posted, the court gave him a do-over of roughly two more years of $500 payments, with a review in September and his due date moved to the 24th of each month.

"IQ Test," the blog wrote. "What do you think is going to happen in September?"

❧

What happened in September was orthodontics.

By the fall of 2017 Andy had been paying regularly, though, the blog noted, "consistently two weeks late." The blog also suspected the money was coming from his partner's paychecks. On September 26, his attorney told Judge Connors that Andy hadn't made that month's payment for a reason. His daughter needed immediate orthodontic treatment, the orthodontist wanted five

hundred dollars down, and Andy had a letter from the child's mother. Could he pay $250 to the court for two months and $250 to the orthodontist?

The prosecutor, Rick Westmoreland, objected. The case had been "going on since 2011." Without some medical verification, he said, he didn't think there was any such thing as an orthodontic emergency.

Judge Connors allowed it: two payments of $250, then back to $500. He asked how much was left, and the answer was a little over nine thousand dollars. "At some point in time," the judge said, "this is an old case. We've got to wrap it up. I encourage you to be out trying to find some way to take care of this in a lump sum payment soon."

That should've been the end of the September hearing. But Andy went home and posted about it on Facebook.

"Let me please explain why I'm so happy with Judge Connors," the post began. The prosecutor had said "braces, that's cosmetic come on, these guys need to get paid its been since 2011." His attorney "got pissed" and asked for $250 twice. "Judge ruled in my incompetent favor." Then the reveal: "ITS NOT FOR braces its for a retainer for an underbite to help my daughter talk clearer when she does interviews for Smiley Heroes. She WORKS for free." Smiley Heroes was his new venture, a set of cartoon characters who'd save the internet. He thanked God, and he thanked God specifically "for touching Judge Connors heart and keeping me from opening a can of wup ass on that prosecution team."

The blog reposted it, of course. "You made your prison mattress," Acumen wrote, "now you get to sleep on it."

Acumen did one more thing with it. On October 2, he emailed the prosecutor, Rick Westmoreland, with a screenshot of the post attached. "Forgive this random contact," he began, and then he laid it out. The orthodontic emergency, Andy's own post made clear, hadn't been an emergency. It was a retainer for Andy's

daughter so she could do "interviews" promoting Smiley Heroes, and, according to the post, a present for her upcoming birthday.

He was fair to the judge about it. "Judge Connors is a good man," he wrote, "and would probably have allowed the reduction anyway," since Andy had been paying fairly regularly for six months and appeared to be working. The point was the next hearing. He wanted the prosecutor to read the tone of the post, "so that the next time Andy pleads for leniency, you'll object more strenuously to what will be the latest in a long string of lies and manipulations of the court."

❧

Something else happened that fall, and the blog kept quiet about it on purpose.

On November 9, 2017, Acumen sent a private email to Adam Platt, his former lawyer and by then his friend. The subject line was "Andy is paying child support!" He explained right away why the news wasn't going on the website: "I don't want Andy to suddenly get shamed and stop."

It had taken years. First they'd had to find out where Andy was living and get Colorado to serve him with paternity papers before his oldest children turned eighteen. Once that was done, ORS ruled that he was responsible and entered a judgment. Then Andy left Colorado and, by Acumen's account, spent years staying out of sight, while Acumen spent much of that time helping ORS work out where he was employed.

In the end it was the probation that did it. Andy had to work to make his restitution payments or risk going back to jail, and a job meant a W-2. When one finally turned up, Acumen tipped off ORS. The State began garnishing his wages, about five hundred dollars a month, on top of the five hundred a month he owed the court in the fraud case. His child-support balance, Acumen told Platt, stood at $45,251, "which I find extremely satisfying."

He called it "the biggest win of the entire anti-Xtagged campaign." Then he signed off like a man who'd spent six years on docket printouts and finally had something to show for it: "We did a good deed my friend. At least we know something positive come from all this Xtagged crap. :-)"

Andy didn't pay the $250 in October. He didn't pay in November or December either. In January 2018 he paid $250. In February he paid $300. In March he paid $300.

On April 3, 2018, everyone was back in front of Judge Connors for a review. Andy's attorney said he'd been making payments. The prosecutor had a printout.

"September 26th of 2017, he was ordered, and Your Honor allowed him to pay a lesser amount of $250 per month," the prosecutor said. "He then posted all about it apparently on Facebook. A pretty extensive statement." He started to summarize it, then changed his mind. "So maybe I should just read it."

And he did. In open court, on the record, the Davis County prosecutor read Andy Esquivel's Facebook post to Andy Esquivel's judge, word for word: the braces that weren't braces, the retainer, "Judge ruled in my incompetent favor," the prayer of thanks, and the can of whup-ass.

"Well, I mean, it's nice that he's so happy with Your Honor. I'm glad he didn't have to open a can of whoop-ass on the prosecution team," the prosecutor said, "but he didn't pay $250 in September or October or November. And then he didn't pay in December either." (The blog had reported a $250 payment right after the September hearing.) The victims had been waiting a long time. "He's paying when he feels like it. He's dictating to the court when he'll pay the restitution ordered long ago." He asked the court to order a sworn financial declaration, tax returns, and W-2s, and a real plan.

When Andy got the chance to speak, he explained the problem. Ryion Butcher and Daryl Acumen, he said, had called his employer and gotten him fired. "Everything he's asking for," he

told the judge, "is at Ryion Butcher's website." He'd posted all his checks and money orders online, he said, "to shut them up." He suggested the court could find whatever it needed at his own website too.

Judge Connors wasn't interested in websites. "I want you on record, sworn, telling us what your income is." He ordered the affidavit, the tax documents, the $500 a month, and a plan to pay off the full balance "as soon as possible, because this is a 2011 case and we can't allow it to linger." If there was no realistic plan, the judge said, he'd terminate probation as unsuccessful and send the debt to the Office of State Debt Collection.

Andy understood exactly what that meant. "And I wouldn't get my 402," he said. That was the statute that would let his felonies become misdemeanors.

"Exactly," the judge said.

Acumen listened to the audio and said he could hear Andy "gulp audibly" at the end. You can't really hear a gulp on a courtroom recording. You can hear a man realize that the one thing he wanted out of all this, a record that didn't say *felony*, depended on the one thing he'd refused to do.

❧

There was one more twist in this period, and the blog took the blame for missing it.

In October 2017, Acumen "rediscovered" something he'd missed. Back in 2015, while everyone was focused on probation, the Utah Division of Securities had quietly finished the administrative case it had put on hold in August 2011. The stay was lifted in December 2014. Andy was given thirty days to respond and didn't. He missed the initial hearing in February 2015 and the default hearing in March. On the Division's motion, the Utah Securities Commission entered a default order finding that he had sold securities, that they were fraudulent, and that he was responsible.

The penalty was a fine of $16,250. Of that, $3,250 was due immediately. The other $13,000 could be reduced dollar for dollar if Andy showed, within thirty days, that he'd paid restitution to his victims. He never made that showing, so the full $16,250 stood. And the order shut him out of the Utah securities industry for good: "permanently barred from associating with any broker-dealer or investment adviser licensed in Utah; from acting as an agent for any issuer soliciting investor funds in Utah; and from being licensed in any capacity in the securities industry in Utah."

"I am ashamed to admit it," Acumen wrote, "but I completely dropped the ball on this one." Then, in capital letters: "Unfortunately for Andy, the Utah Department of Securities DID NOT FORGET ABOUT HIM!!!"

He added the securities penalty to the running total in the upper-left corner of the blog, where it would stay for the rest of the site's life. It was, in a way, the most honest financial statement Xtagged ever had.

❧

Andy didn't file the affidavit. He didn't file a plan. On June 5, 2018, Judge Connors signed an order to show cause. Andy had until September 4 to explain why his original sentence, up to five years in prison on each count, shouldn't be imposed.

"And so we're coming to the end of this saga," Acumen wrote. "It's been fun to write about, but I'm glad it's almost over."

On September 4, 2018, Andy came to court and admitted the violation. Through his attorney, he explained that he'd been in and out of the hospital that summer with vertigo and panic attacks. He was working only two or three days a week. "There's nothing left," he told the judge. "I would pay it." His employer, he said, had promised to put him back on full time if his tests went well.

The prosecutor asked for thirty days in jail. "Something needs to get Mr. Esquivel's attention," he said, "and these reviews haven't been doing that."

Judge Connors didn't jail him that day. He gave him two weeks to file the financial affidavit and the plan he'd been ordered to produce five months earlier. If he didn't, the judge said, "you're going to go to jail for violation of the court's direct order."

The hearing was set for September 18, 2018.

It lasted five minutes, from 9:52 to 9:57 in the morning, and the blog never wrote about it. There was nothing to post. No recording was made available, and what Andy filed that day was kept out of public view.

The docket tells the story anyway, in its usual flat style. Andy filed an affidavit of indigency, marked private. Three restitution payments posted the same day, interest included, totaling exactly three hundred dollars. His attorney told Judge Connors that "payments are being made." The judge set another review for December 11. Nobody went to jail.

After that the archive goes quiet for a few weeks. When it picks up again, Andy is on Facebook, writing to the Attorney General of Utah about a lockable pill bottle he invented in a mental hospital, and promising a Facebook Live event on Halloween.

"(More to come," that post ends, "I have phone call)"

CHAPTER SIXTEEN

Paid in Full

On March 3, 2019, Daryl Acumen published one of the shortest posts in the archive's nine years. Its headline was "VICTORY!!!" and the whole post was two paragraphs:

"The state of Utah has intercepted Andy Esquivel's 2018 tax refund on February 27th and used the cash to pay off the victims of his Xtagged scam. Because of this blog, Andy's victims have been repaid in full with interest!

"Thanks Andy, on behalf of Ryion, Kyle and Chris. This website will remain in perpetuity as a monument to your fraud and to the stupidity of your accomplices."

It's worth a moment to take that in. Kyle Cluff wrote his first check, a $4,000 cashier's check payable to "XTAGG INC.," on March 11, 2008. Almost exactly eleven years later, the State of Utah finished getting his money back. In the meantime he'd testified under oath, as a college senior headed for graduate school, about a Chevy Cavalier. Now, at last, he got a check.

So did Chris Engelbrecht, the gym owner who'd sent a certified letter in 2009 that came back undeliverable. So did Ryion Butcher, the sales manager who drifted into a meeting at Performax and paid for the last half percent twice. In May, Acumen confirmed it: "The three victims that were the inspiration for this blog have all been paid back in full. I've confirmed that they all received their restitution checks in April."

Six thousand dollars plus interest went to Kyle, five thousand to Ryion, and two thousand to Chris.

The total came to thirteen thousand dollars.

The money's source turned out to be more complicated than a tax intercept. We know because Andy explained it himself, in a Facebook post the blog didn't find until more than a year later.

His version went like this. In February 2019, he wrote, his partner paid off the remaining $7,000 in restitution without telling him. She did it, he said, because she was scared. Andy wrote that his former probation officer, Roman Hentish, had sent two police officers to her apartment to harass her and the kids, so she believed AP&P would send him to prison if the money wasn't paid. "She gets taxes for our girls," he explained. "So my girls went with mom and paid off court," he wrote, "so I could terminate and Troy Rawlings couldn't put Daddy back in jail with 13 fake probation violations that were ultimately dropped." Both versions involve a tax refund, and the posts never quite reconcile them.

He wasn't happy about it.

"I did not want my case terminated," he wrote, "because I knew as long as I kept my case LIVE I would eventually get to speak to Judge Connors."

Stop on that sentence, because it may explain more about Andy Esquivel than anything else in this book. For eight years he'd described the case against him as a conspiracy, a persecution, a racist frame-up, a waste of a hundred and fifty thousand taxpayer dollars, and a plot to steal the license-plate system that would make him a billionaire. Yet he didn't want it to end. As long as the case stayed open, there was a courtroom and a judge, and there'd always be one more hearing where he might finally be heard. The case was his last open deal, his last percent. He wanted to keep it on the market.

The blog's reaction, when it finally came in December 2020, was brief. "Ok, it's late and I'm tired, but quickly wanted to post that Andy finally admitted where the money came from." By Andy's own account, Acumen noted, his girlfriend had paid "the final $7,000 after a warrant was issued for his arrest and officers went to his apartment to apprehend him. How sad (not)."

❧

The last hearing in *State of Utah v. Andres Esquivel*, case number 111701135, was held on March 22, 2019, before Judge David Connors. He'd presided over it since 2011.

We have only Andy's description of it. According to Andy, the prosecutor that day was Troy Rawlings, the Davis County Attorney. Andy's public defender was still C. Markley Arrington, the lawyer who'd asked for the competency evaluation in 2013. Andy said the judge asked one question before closing the case: "Do you, Public Defender Arrington, or new prosecutor, have anything to say before I terminate this case?"

Both lawyers, according to Andy, "looked down the whole time and said 'No.'"

"They were scared I was going to explode," Andy wrote, "and I should have exploded."

He didn't. The judge terminated the case, and it was over: eight years, two judges, three appointed or retained defense lawyers and repeated turns by Andy as his own, at least two arrest warrants on the probation alone, more than four months in jail and a stint at the State Hospital, a competency finding in each direction, one guilty plea, and $13,000 in restitution.

❧

Two months later Andy filed one more thing. It was a petition to reduce his convictions, the "402" he'd mentioned in court the year before, the one that would turn his two felonies into

misdemeanors. The plea agreement had promised the prosecutor wouldn't object, provided Andy completed probation.

The blog posted the letter that came with it. It didn't make the strongest case. "…your courtroom is corrupt by racist attorneys & prosecutors," Andy wrote to the judge. "I have chronicled everything at WiserTechnology." He claimed that the private lawyer who'd represented him back in 2012 (whom he now remembered as charging five hundred dollars an hour rather than two hundred) had told him, "Don't f**k with the brotherhood." Nothing else in the record supports it. He added that Allen Brady had recordings of Holje, Albright, Arrington, and the others.

"It is not likely that Judge Connors will grant this request," the blog predicted, "based on Andy's reasoning."

The blog was wrong, though not about the reasoning. The hearing on the motion was held on June 25, 2019, and it took about a minute. Andy didn't come. The State didn't object, just as the plea deal had promised. Judge Connors said he would grant the reduction "once an order is submitted to the court for signature."

As far as anyone can tell, nobody ever submitted one. Andy no longer had a lawyer to draft it, and he didn't draft it himself. For a man who'd once sent the court 502 pages of evidence, it was a single page. Acumen checked the case file. There's no signed order in it. The judge had said yes. Andy just never picked up the yes.

So the record stands where it stood on the day he pleaded. On the State's docket today, *State of Utah v. Andres Esquivel*, case number 111701135, lists three charges, each for securities fraud under Utah Code 61-1-1, each with an offense date of March 1, 2008. Charge One, the second-degree felony, was dismissed without prejudice on August 19, 2014. Charges Two and Three read the same way they have for more than a decade:

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                          STATE OF UTAH vs. ANDRES ESQUIVEL
CASE NUMBER 111701135 State Felony
CHARGES
        Charge 1 - 61-1-1 - SECURITIES FRAUD - 2nd Degree Felony
        Offense Date: March 01, 2008
        Plea: March 21, 2012 Not Guilty
        Disposition: August 19, 2014 Dismissed (w/o prej)

        Charge 2 - 61-1-1 - SECURITIES FRAUD - 3rd Degree Felony
        Offense Date: March 01, 2008
        Plea: August 19, 2014 Guilty
        Disposition: August 19, 2014 Guilty

        Charge 3 - 61-1-1 - SECURITIES FRAUD - 3rd Degree Felony
        Offense Date: March 01, 2008
        Plea: August 19, 2014 Guilty
        Disposition: August 19, 2014 Guilty
```

The charges in State of Utah v. Andres Esquivel, case 111701135, as they appear on the court docket today.

Two felonies. Not misdemeanors.

"After all that bitching," Acumen said, "he was either too lazy or too stupid to submit the paperwork."

For a man who'd spent a dozen years announcing deals that never closed, it may be the most fitting ending available. The one deal that actually got approved, he never closed either.

❧

The rest of the cast scattered.

Steve Klemark, who'd been named as co-owner, CIO, buyer, and inventor of Digital Internet DNA, disappears from the record after the early years. The blog's summary in 2014 was that he "must... feel really stupid right now." So, it said, must Shar Jenkins and Ron Kelsay. Jenkins was the Wiserman, who had once told a camera, "In fact, I love you, bro." Kelsay held the camera for the documentary that never premiered.

Allen Brady stayed loyal the longest. He was at the Playground back bar in 2007. His family put fifty thousand dollars into a company that didn't exist. He paid for the lawyers and posted bail more than once. He delivered the 502 pages of evidence, sat in the gallery, raised his hand in court, and filed Andy's motions from the hallway of the Davis County courthouse until a public

defender explained to him that this was illegal. In 2019 the blog reported, without documentation, that he'd fallen on very hard times in Arizona and promised details later. They never came. This book won't fill them in. Of everyone in this story, Allen Brady might be the one most taken in by the man he spent twelve years helping. Nothing in the record shows him charged with anything, and he never claimed to be anything but a believer.

Rebecca Dunn appears in the record for the last time in a footnote. She was the CEO of a company that never existed, the woman who wrote that "Andy is a good man!!!!" and then a hundred thousand characters about why he wasn't. In 2013, Andy listed her as a witness who'd testify for him. Her son wrote that she wouldn't be at trial. There was no trial.

The court record ends there for her, but the story doesn't, and it's the part that mattered most to the man who kept the record. In 2011 Rebecca Dunn had started to see Andy for what he was. By 2013 she'd finished seeing it. She'd accepted that he was a fraud, and that the son she'd defended him against had been telling her the truth. That year, after five years of estrangement, the two of them really started talking again. At Thanksgiving, Daryl Acumen flew to North Carolina and formally reconnected with his mother. He brought his son along, so the boy could meet his grandmother. She'd learned he existed secondhand, a few days after he was born. Now he was three, and standing in her doorway.

It had been four years to the holiday since the phone call in the parking lot at Mimi's Cafe.

That was the point. It wasn't the docket printouts or the video reviews, or the running balance in the corner of the blog, or even the restitution checks, though Acumen was glad about every one of them. "I didn't do all of this just for fun," he said years later. "The only way I could get my mother away from Andy was to expose him as a fraud and see him charged. That was my primary motivation...and it worked."

He'd said it once before, privately, years earlier. On July 31, 2011, a few days after Andy's arrest, his mother sent him an email suggesting she might finally be coming around, and he forwarded it to Adam Platt. "I'll never admit this publicly (and if you quote me, I'll deny it)," he wrote, "but getting her to snap out of this delusion was the whole point of all my efforts in the first place. Seeing Andy go to jail is just an added bonus. :-)"

He isn't denying it now.

The man who didn't scatter was the one who'd never wanted to be there at all.

❧

That post, on the evening of December 2, 2020, was the blog's last. Acumen described it as "the final word on case #111701135." It consisted of a short introduction and Andy's long Facebook post about his partner and the restitution, reproduced "in raw form."

He noted that Andy still owed about sixteen thousand dollars to the Utah Division of Securities. "But we all know he'll never pay that," he wrote. "He still insists he's innocent, so…"

Then came Andy's post. It's rambling and furious and very much in his voice: AP&P's business cards, the hospital director, the cell with the swastika, the prosecutor who, he claimed, had threatened his partner, the court video, and the lawyers who looked down. Then, in its last few lines, with no paragraph break, it turns to something else.

"…and seven days later Samantha Josephson was killed because she got in the car thinking it was her"

That's where it stops, in the middle of a sentence. It's the last line in the archive.

Samantha Josephson was a twenty-one-year-old college student in Columbia, South Carolina. On March 29, 2019, seven days after Judge Connors closed Andy's case, she got into a car she thought was the rideshare she'd ordered. It wasn't. She was murdered. Her death led South Carolina to pass a law requiring rideshare drivers

to display illuminated signs, so passengers could confirm that a car is the one they called, and it prompted similar efforts elsewhere.

Andy never finished the thought, and it would be wrong to finish it for him. But anyone who has read this far knows the idea he'd been selling since 2007. A young woman meets a stranger. Before she gets in, she asks, "Are you X-Tagged?" She can see his face, his plate, and the car he'll drive up in, so she knows what to expect.

He'd been right about the problem. The twelve years between the lanyard in the Bountiful gym and that unfinished sentence on Facebook show how far he was from ever solving it. He had no patent, no product, no partnership with the DMV, and no company. He had a story, and the story ran ahead of the facts for so long that the facts never caught up, until he signed his name under them.

He did have one thing he'd always said he had, though nobody believed him. He had a record. He kept it himself, in videos and emails and Facebook posts, and a man in Utah who never wanted any of it kept the rest. Between them it's all there.

EPILOGUE

The Monument

For years there has been a little box in the upper-left corner of xtagged.co. It sits above the posts, the court documents, and the video list, and it reads:

CURRENT BALANCE OWED BY ANDY ESQUIVEL...

Under that is a dollar figure, and under the figure is a two-line breakdown: securities penalties and child support. The number has moved over time. It went down when a payment cleared and up when an arrears statement came in. On the live site in the fall of 2026, it read $35,630.23.

It isn't a dramatic monument. There's no statue and no plaque, just a number in a sidebar, kept current by a man who measured things for a living. It may be the most fitting memorial a con man could have, though. Andy Esquivel spent a dozen years talking in valuations: a hundred million from MySpace, five hundred million from investors in line, a billion from Google, "billions" from the license-plate system that would change the world. The box in the corner answered him the only way the straight man ever did. It didn't argue. It just kept a running total of what he actually owed.

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So what was Xtagged, exactly?

It's tempting to say it was nothing, and in the sense that matters to a securities regulator, it was. It was never registered in Utah. It was never patented. It never had a deal with the DMV, a buyer, an IPO, or a product that made money. The State's investigator testified to most of that in about ten minutes. Andy's own signature on a plea form in 2014 admitted it.

But "nothing" isn't quite right either. There was an idea, and the idea wasn't crazy. Rebecca Dunn, who had every reason to be bitter, called it "a brilliant one," and wrote that "with the right team, Xtagged could have been a billion dollar corporation." By 2011 a San Diego startup called Bump.com was letting drivers message each other by license plate. That's what Andy meant when he said they'd taken his idea. His websites even gave the dates: "Xtagged.com filed patent 11/09/2007 & Bump.com filed patent May/20/2010."

Half of that checks out. Bump's founder, Andrew Phipps, did file a patent application on May 20, 2010, for turning license plates into addresses people could message. But it was a continuation of an application he'd filed in February 2006, which claimed a priority date of February 23, 2005, more than two years before anyone had heard of Xtagged. As for the other half, the public patent record holds nothing filed by Andres Esquivel or by Xtagged, in 2007 or any other year. The State's investigator searched in 2012 and found nothing either. Rebecca Dunn had the explanation in 2011. A lawyer had started the process, she wrote, but "Andy decided not to pay the fee," and the idea "became what is known as public domain." Andy, she said, had even put his reason in writing: he'd cancelled the patent because "IT DON'T WORK!" Since then, rideshare apps have trained hundreds of millions of people to do exactly what Andy described in the Bountiful gym in 2008, which is to check the plate before you get in the car. A state legislature passed a law in Samantha Josephson's name to make that easier.

The idea was never the problem. The problem was the man who had it. He couldn't build anything, so he described the idea, then described it bigger, then sold a percentage of the description to the nearest person who trusted him. When that person asked for their money back, he described something new. The car cover, the drink, the tablet, the glasses, the e-cigarette, the sex app, the temple, the cartoon superheroes, and the pill bottle were all the same move. Each was a description that came before the thing it described, and the thing never arrived.

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Was he a con man or a believer?

Everyone in this story has an opinion. The blog called him a sociopath for nine years. His probation officer, a trained professional, called him "superficially charming," with "a reduced ability to experience guilty shame." Two court-appointed psychologists and, for a few months, a district judge found him incompetent, with "delusional thinking." A federal judge had found him "fully competent" in 2003, and in 2014 he signed a form saying he was free of any mental disease. His mother posted his bail; his partner, by his account, paid off the last of his restitution; and his most loyal friend spent a decade driving him to court.

This book doesn't have a verdict to add. It does have an observation. The most revealing thing Andy ever said may not have been a lie. It was the motto he repeated from the mental hospital and in his own videos: "Desperation breeds creativity." He meant it as a philosophy of invention. It works just as well as a description of everything that happened. Each time the old story ran out, he was desperate, and each time he got more creative. The creativity was real. It just never produced anything except the next story.

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The last word, for now, belongs to Andy. It usually does.

In January 2026 a YouTube channel called Defender vs Pretender posted a video that runs a little under four minutes. Its title promised a talk about "shadow banning on Tik Tok" and told viewers to see it "ASAP." The description, in full, reads: "Shadow banning eXposed..."

It opens in a kitchen. One of Andy's kids is holding the phone, and says so: "Dad, I want to record you while you watch this video." Andy's partner, the mother of his younger children, is cooking in the background. Andy is fifty-five. He's fiddling with a new watch. He's also already seen the video he's supposed to be watching, and he'd like to explain it.

TikTok, he says, has been shadowbanning him since 2020, because his videos can't be allowed to "go worldwide." If they did, "everybody finds out that Trump knew about the deadly data." He doesn't say what the deadly data is. He does have evidence of the suppression. The kids' mother's video of a recent march, he reports, got almost two hundred views. His got thirty-three. That's why the billionaires got together to buy TikTok, he explains: "Let's buy Tik Tok together so that we can shadowban Andy's videos."

A man who once boasted that Karma Cause was getting "48,000 requests just last month" now had thirty-three views, and he'd done the count himself.

He isn't worried, though. "That's why I just been calm," he says, "living life with my family, chilling, eating good, because God's taking Trump down for me." And it isn't just Trump, he adds. Trump, he says, is eighty years old and doesn't understand the internet. The real power is Elon Musk.

Then, near the end, with the cooking going on behind him, he gets to the point.

"All this is Elon X," he says. "X out smoking. X out DUI. ... X out. Everything I had was X out. That's where Elon Musk got X from. He copied everything."

X out smoking was presumably the Wiser e-cigarette. X out DUI was likely Buzz/Wiser, the energy drink with "Alcohol Content 5.4%" on the can. Elon Musk, in Andy's account, had watched all of it from somewhere and helped himself to the letter. When Andy refused to go quietly, Musk had him "attacked on Twitter with Joe Rogan" and with "Jack, what's his name? Dempsey. Jack Dempsey." The idea, Andy says, was that he'd give up, "take a few million dollars and disappear to Mexico."

Jack Dempsey was the heavyweight champion of the world from 1919 to 1926. He died in 1983. He had no known role at Twitter. Andy probably meant Jack Dorsey, the company's co-founder, who left its board in May 2022, months before Musk bought it.

As for where Elon Musk got X from, the record is fairly clear. In March 1999, shortly after selling his first company, Zip2, Musk put about twelve million dollars of the proceeds into an online bank he co-founded in Palo Alto. He named it X.com. It launched that December and signed up more than two hundred thousand customers in its first two months. In March 2000 it merged with a rival called Confinity, whose money-transfer service was called PayPal, and by the middle of 2001 the whole company went by that name. In 2002 eBay bought PayPal for $1.5 billion. In July 2017, PayPal sold the x.com domain back to Musk, who said it had great sentimental value. He bought Twitter in 2022, and in July 2023 he renamed it X.

So Musk's X was eight years older than Xtagged. When it launched, Andy Esquivel was twenty-nine. Musk's X had customers, a merger, a product people used, and a billion-and-a-half-dollar exit. Andy's X had a doctored license plate and a lanyard.

Andy's video ends with instructions. Post this one on every platform, he tells the kid holding the phone, and compare the views. "It's only a couple minutes long," he says.

It's still up. It hasn't gone worldwide.

The account had posted another, shorter video two months earlier, on November 22, 2025, this time on TikTok. In this one Andy's daughter does most of the talking, standing in the living room of his apartment, while Andy directs from behind the phone. ("Hold on, let me make sure you're in the shot. Yup, you're in the shot.") A local station had just reported that a woman was locked in the back of a rideshare by the child locks and assaulted. That "wouldn't have happened," his daughter says, "if they had listened to my dad back in 2008."

Then Andy jumps in. Back in 2008, he says, he made a phone case with a window breaker built into it, so a passenger who'd been locked in could smash the glass and run. He'd show it, but "we can't show it because the attorneys won't let us show it right now." Instead, they'll put an Amazon link to a window breaker in the comments. "Order yours today."

The caption says his daughter is "going viral." At last count the video had been played 187 times. And at the very beginning, before the camera is set, someone off screen asks whether they'd rather wait and shoot it tomorrow, "when we're Ubering."

Andy's websites are all still out there, too. Type xtagged.com into a browser today and it forwards to a site called C-nts Are Us. (The hyphen is Andy's.) It bills itself as a "Plate Number Database," the same idea eighteen years on, with a list of the "Top 21 Trending Plates 2025," ads for XooPlay, and a mission statement: "Digital Hell aka D-Hell, if you are listed here it means God's trying to save you CEO's from eternal Hell." It promises "T-mobile Deepfakes & C-nt-Clusters coming August 2024!!!" and a launch on "09.08.2025," which was Andy's fifty-fifth birthday. Both dates have come and gone, and the page still says "Under Construction." WiserTechnology.com, where Andy kept most of his case for the defense, is still up too: one long scroll of accusations against judges, prosecutors, probation officers, the victims, and Daryl Acumen, mixed in with the e-cigarette, last updated in October 2018. Somewhere in it is a disclaimer, in

capital letters where it counts: “FYI- I Allen Brady … manages this site, NOT ANDY!”

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What about the straight man?

Daryl Acumen met Andy Esquivel in November 2007 because a friend asked him to. By February 2008 he’d decided Andy was a fraud. He told Allen Brady a white lie at a bar and gave his mother the wrong man’s phone number. He spent the next twelve years paying for both mistakes, in harassing emails and lawsuits threatened but never filed, in years of silence with his mother, and in hundreds of hours spent scanning docket printouts and transcribing YouTube videos that most people couldn’t sit through.

Was he obsessed? Andy certainly thought so, and plenty of readers will too. The blog was relentless and often harsh. It called Andy names, and it said things about his family that a more careful writer would’ve left out. It said things about Andy’s associates that this book has chosen not to repeat. It wasn’t neutral. It never claimed to be.

But look at what it actually did. It put the court documents online, all of them, with case numbers. It preserved the videos Andy might later have deleted. It forwarded the evidence to the prosecutor, gave investigators a single place to find everything, and kept the victims informed. When Andy announced a sex app, it called Apple. When Andy announced a movie deal, it found the price list. When Andy announced that his trial was being stalled by a conspiracy, it posted the audio of him telling the judge he’d go to jail right now to prove he wasn’t crazy. And when the money finally came, it confirmed the checks.

Maybe the best summary of Daryl Acumen’s role is one he wrote himself, in the blog’s first week, when he still thought it would be a short project. “This website will stand in perpetuity,”

he wrote, “as a warning to anybody considering getting involved with Andy Esquivel.”

It did. It’s still standing.

It also did the thing it was really for, which wasn’t on the front page. In May 2010, when she was Andy’s CEO and days before her son told her to forget he existed, Rebecca Dunn wrote a line in an email that she probably didn’t expect anyone to read again. “I continue to pray,” she wrote, “that this story, this book, or this movie will have a happy ending.”

It took a long time to get one. Things got ugly in the Xtagged years, and the damage didn’t heal just because mother and son started talking again in 2013. The way back was a long, slow, painful crawl. Rebecca Dunn missed her son’s wedding. She missed two of his college graduations. She has never been to his home in Utah. She learned that each of her grandchildren existed only after they’d been born. Between them, Daryl’s two kids saw her three times when they were small: his son at three, his daughter at four, and his son once more at five or six. After that, years went by without either of them seeing her in person.

In June 2026 she made the trip from North Carolina to Maryland to watch him graduate from Loyola University with a master’s degree in data science, his second master’s. When the ceremony ended, he found her outside the auditorium, in the area set aside for families, and put the diploma he had just carried across the stage into her hands. She thought he only wanted her to hold it for a while. Later he made sure she understood that he wasn’t going to take it back. It was hers to keep.

In August he took the kids to see her. They’re teenagers now, her only son’s children (her only grandchildren), and for the first time they were old enough to know her for themselves. Their father was there, but the weekend wasn’t about him. She made them breakfast every morning. They sat out on the porch together and laughed.

The last time this book put Rebecca Dunn at a breakfast table, Andy Esquivel was sitting across from her. This time it was her actual family, and nobody was selling anything.

The happy ending she prayed for in 2010 did come. It didn't come from a book or a movie. It came the slow way, one visit at a time, and it's real.

The rest of the cast will have to settle for a modest ending.

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There's a scene near the end of *Burn After Reading* where the CIA supervisor, played by J.K. Simmons, gets the final report on a case that involved a stolen disk of nothing, a pair of gym employees, a shooting, and a pile of misunderstandings. He listens, thinks it over, and asks what they learned. Then he answers himself. They learned not to do it again, though he isn't sure what *it* was.

Daryl Acumen would have understood that scene completely. After twelve years, two gyms, a toy Mustang, a Chevy Cavalier, a bottle in a protective case, a hundred-odd YouTube videos, eight years of litigation, one guilty plea, and thirteen thousand dollars, he came away with three lessons, and none of them is complicated.

Do your homework.

Don't buy the last half percent.

And if you find yourself in a hole, stop digging.

A NOTE ON SOURCES

Nearly everything in this book comes from two archives. The first is a message-board thread on UtahRaves.com, "Xtagged.com SCAM (and Con Artist Andy Esquivel)," which ran from February 23, 2010, to December 3, 2011, and survives as a printout of more than eight hundred posts. The second, and larger, is the website xtagged.co, which published its first post on December 6, 2011, and its last on December 2, 2020. The epilogue also draws on two videos Andy appeared in, posted to TikTok in November 2025 and to YouTube in January 2026, and on published histories of X.com. Details about Joseph Vann Dunn's background come from CITA Biomedical's 2002 annual report (Form 10-KSB) on file with the SEC, *Computerworld* (June 15, 1992), and the Santa Clara County Superior Court's public docket. A few passages draw on Daryl Acumen's private correspondence, including a November 2017 email to his attorney about Andy's child support. Some background, including Daryl Acumen's account of his early dealings with Andy, his phone calls with Allen Brady, and the evening at the Brady home, comes from his own recollection and is identified as such in the text.

The archive holds 187 blog posts and a handful of static pages. Linked from them are about a hundred documents, mostly court records. These include docket printouts, minute entries, motions, orders, warrants, plea forms, probation reports, and sentencing minutes from the Second District Court of Utah (Davis County), the Fourth District Court (American Fork), the Second District's Bountiful court, the Third District Court (Salt Lake), Weber

County's Second District Court, and the United States District Court for the District of Utah. There are also administrative orders from the Utah Division of Securities, records from a Colorado domestic-relations case, and Utah Office of Recovery Services liens. Beyond those, the archive includes the certified transcript of the March 21, 2012, preliminary hearing, audio recordings of several later hearings, and a collection of emails and annotations that Rebecca Dunn gave her son in 2011. Most important of all, it preserves more than a hundred videos that Andres Esquivel recorded and posted himself.

Many of the documents exist only as scanned images. For this book they were converted to text by optical character recognition, and the audio and video were transcribed by speech-recognition software. Both methods make mistakes. Wherever a quotation depended on a garbled scan or an unclear recording, the passage was checked against context. Where it couldn't be confirmed, it was left out. Quotations from emails, posts, and letters keep their original spelling and punctuation. Andy Esquivel's writing has a distinctive style, and correcting it would have erased evidence that Rebecca Dunn and others relied on to tell his voice from the voices of the people he wrote as.

A few cautions.

The archive is not neutral. It was built and run by Daryl Acumen. He was a participant in this story, not an observer of it: he promoted Xtagged briefly in 2007, gave his mother Andy's phone number, ran the UtahRaves thread, helped the investors take their complaints to the police, was the protected party in Andy's harassment case, reserved the Xtagged name in Colorado, sent evidence to prosecutors, and spent years in open conflict with Andy online. The blog's commentary is partisan and often harsh, and much of that tone has been left out of this book. Where this book depends on the blog's own reporting rather than on a document, it says so.

Allegations are labeled as allegations. Several claims in the archive were never tested in court. These include the amounts allegedly taken from Andy's relatives, the allegation by Melissa Garr reported in his lawyer's email, and some characterizations of Allen Brady and others. They're presented here as claims, attributed to whoever made them. In the same way, Andy's many accusations against his victims, his lawyers, prosecutors, judges, and the blogger are presented as his claims. None of them was ever substantiated by any court or agency.

Some things have been left out on purpose. The archive contains private information about people who never chose to be part of this story, including Andy's children, his former partners, a protective-order petitioner, and the families of several associates. Where those details weren't essential, they've been omitted. Where they were essential, they've been kept to a minimum and, where possible, anonymized. The archives also contain slurs, sexual smears, and medical insinuations that Andy directed at the blogger and others. None of those are repeated here.

The record has gaps. The September 18, 2018, hearing was not recorded for the blog, and its filings were not public; this book relies on the docket's minute entry for it. The outcome of Andy's 2019 motion to reduce his convictions comes from the docket's minute entry and the case file, not the blog. Andy maintained his innocence to the end of the record, and he's entitled to have that noted.

Finally, a word about the people who lost money. Kyle Cluff, Chris Engelbrecht, and Ryion Butcher told their stories under oath, and they and others, including Melissa Engelbrecht and Logan Laws, dealt with state investigators and, in some cases, the public, at real cost to their privacy. The comedy in this book is real, but they weren't the joke. They were the reason anyone was paying attention at all.