

The Power of Noticing: What the Best Leaders See

Featuring Max Bazerman, Harvard Business School Professor and Co-Director of the Harvard Kennedy School's Center for Public Leadership



JUNE 25, 2014

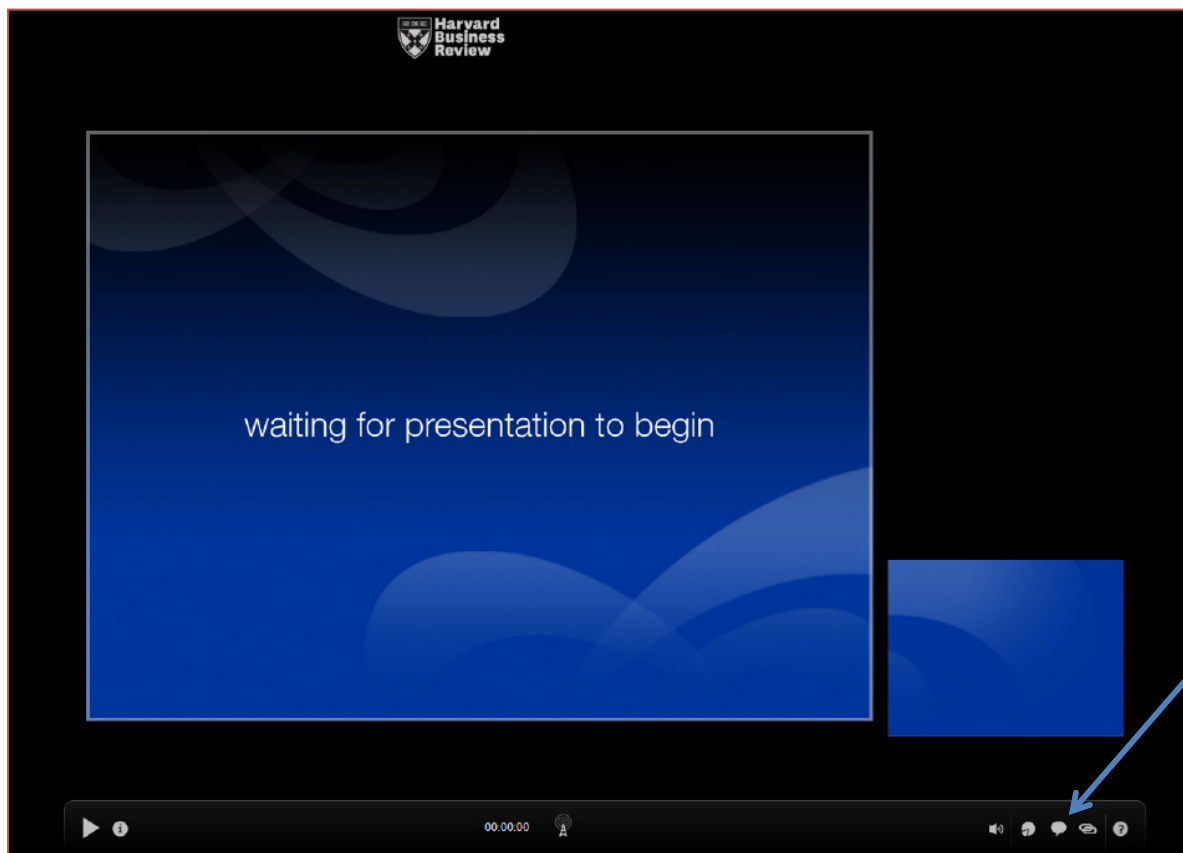
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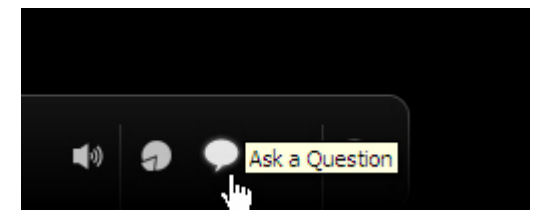


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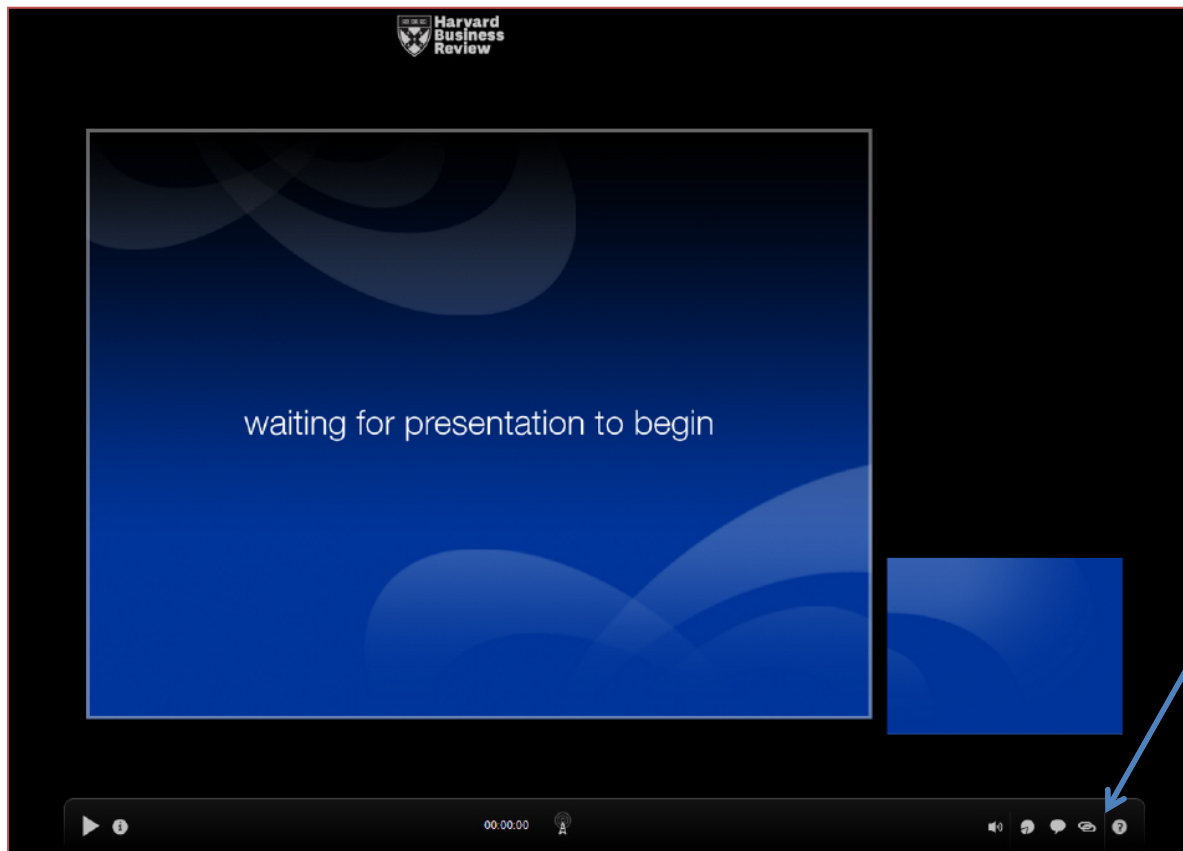
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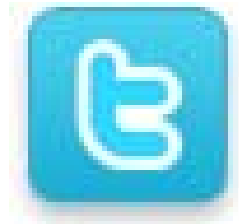
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The Power of Noticing: What the Best Leaders See

Today's Speaker

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The U.S. versus Tobacco

1999 – The US DOJ files suit under RICO

- a) Fraud
- b) Conspiracy

The Frauds

- 1) Selling addictive substances while denying doing so.
- 2) Manipulating nicotine while denying doing so.
- 3) Leading the public to make the false inference that light/low tar products are less hazardous than full flavored brands.
- 4) Denying the effects of second hand smoke despite having data to the contrary.
- 5) Denying the primary health effects of smoking despite having internal studies that clarify these effects.
- 6) Making false claims about conducting independent research.
- 7) Suppressing evidence on health effects of smoking.

Max's Role

- 1) The main remedy for the DOJ was disallowed
- 2) I was hired 3/10/2005 as a remedy witness
- 3) I was hired based on my auditing work, knowledge of corporate governance, and writing on the implicit psychology of unethical behavior.
- 4) Core implicit argument: In addition to the potential of the tobacco companies intentionally misleading the public, the goals of the market system would drive these companies to self-serving interpretations of their acts, allowing them to engage in misrepresentation, beyond their own awareness.

Recommendations

My testimony concluded with the argument that absent significant court intervention, misconduct would occur in the future. My recommendation to the court, based on the assumption that D.O.J. had proven liability, was that the court should appoint monitors to the tobacco companies to consider appropriate structural changes, not limited to, but including removal of senior management.

Timing of My Work

- 1) Hired: 3/10/05
- 2) Filed expert report: 3/21/05
- 3) Deposed: 4/10/05 (7 hours, 10 attorneys on the other side)
- 4) Mid-April: Submitted written direct testimony
- 5) 4/30/05: At the beginning of a prep session for 5/4/05 court appearance, I was asked to amend my testimony
- 6) 5/4/05: Testified in court
- 7) 5/4-6/05: Prepared for Daubert challenge
- 8) 5/6-13/05: Helped DOJ prepare for Fischel (my opposite) testimony

Total: 214 hours

Daubert

Two days after I testified, the judge started the day by noting: “Dr. Bazerman was eminently qualified to testify as an expert in behavioral decision research, emphasizing his detailed methodology, his experience, and his scientific body of work.” She said, “he has tested his theories, they have been subjected to peer review, and they are accepted in the scientific community.” Thus, I was certified as an expert on “behavioral decision research”.



9/11

The U.S. government knew that terrorists were willing to become martyrs for their cause, and that their hatred toward the United States was increasing.

1993: Terrorists had previously bombed the World Trade Center.

1994: Terrorists hijacked an Air France airplane and made an aborted attempt to turn the airplane into a missile aimed at the Eiffel Tower.

1994: Terrorists had also failed in an attempt to simultaneously hijack twelve U.S. commercial airplanes in Asia.

Airline passengers knew how simple it was to board an airplane with items, such as small knives, that could be used as weapons.

Enron

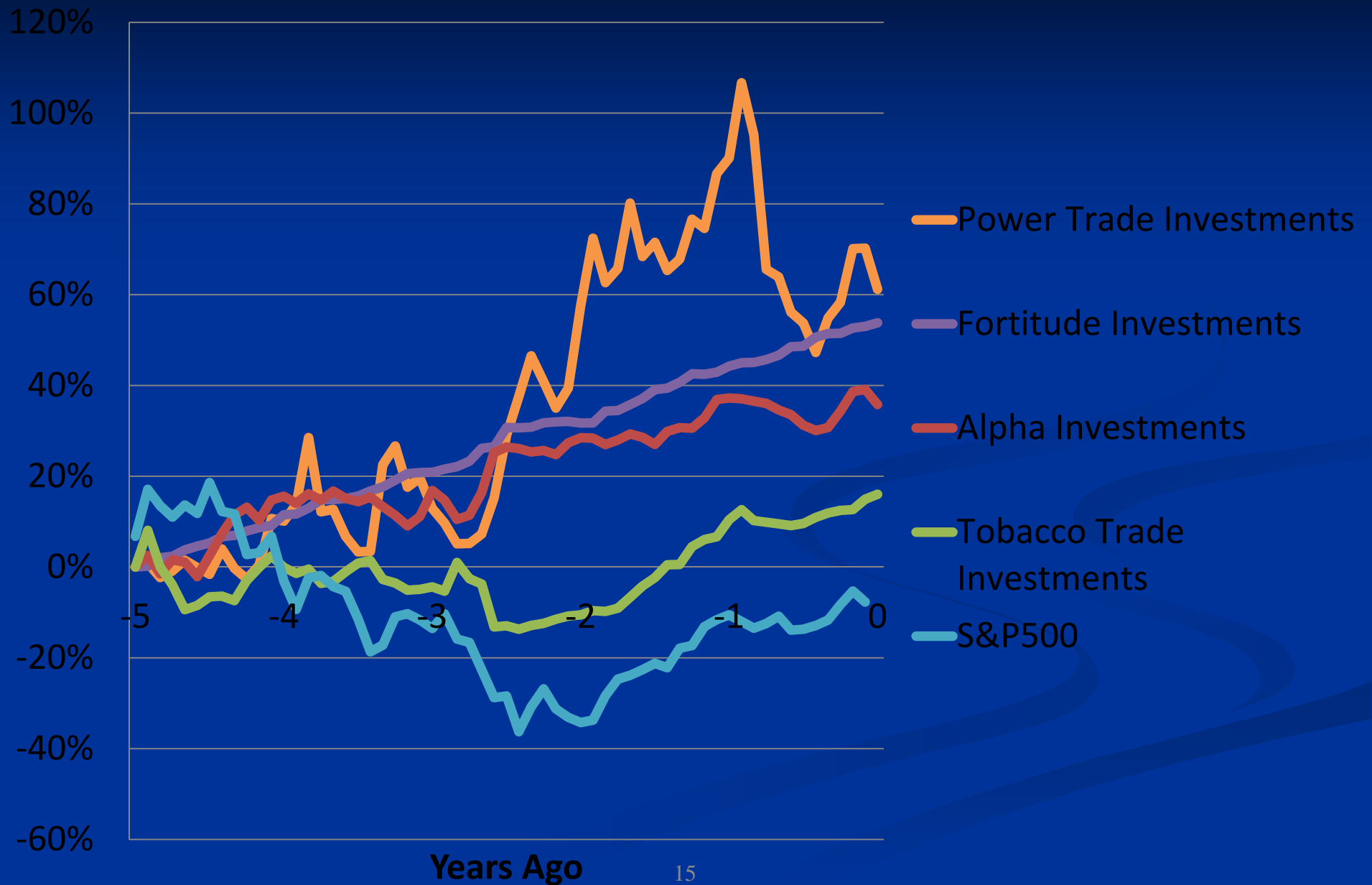
How could Arthur Andersen vouch for the financial health of Enron, concealing billions of dollars in debt from its shareholders?

At the heart of the Enron debacle is a conflict of interest that experts have been warning about for years. In 2000, multiple scholars testified before the SEC that the rapid growth of the Big 5 accounting firms' consulting divisions have made impartial financial audits almost impossible.

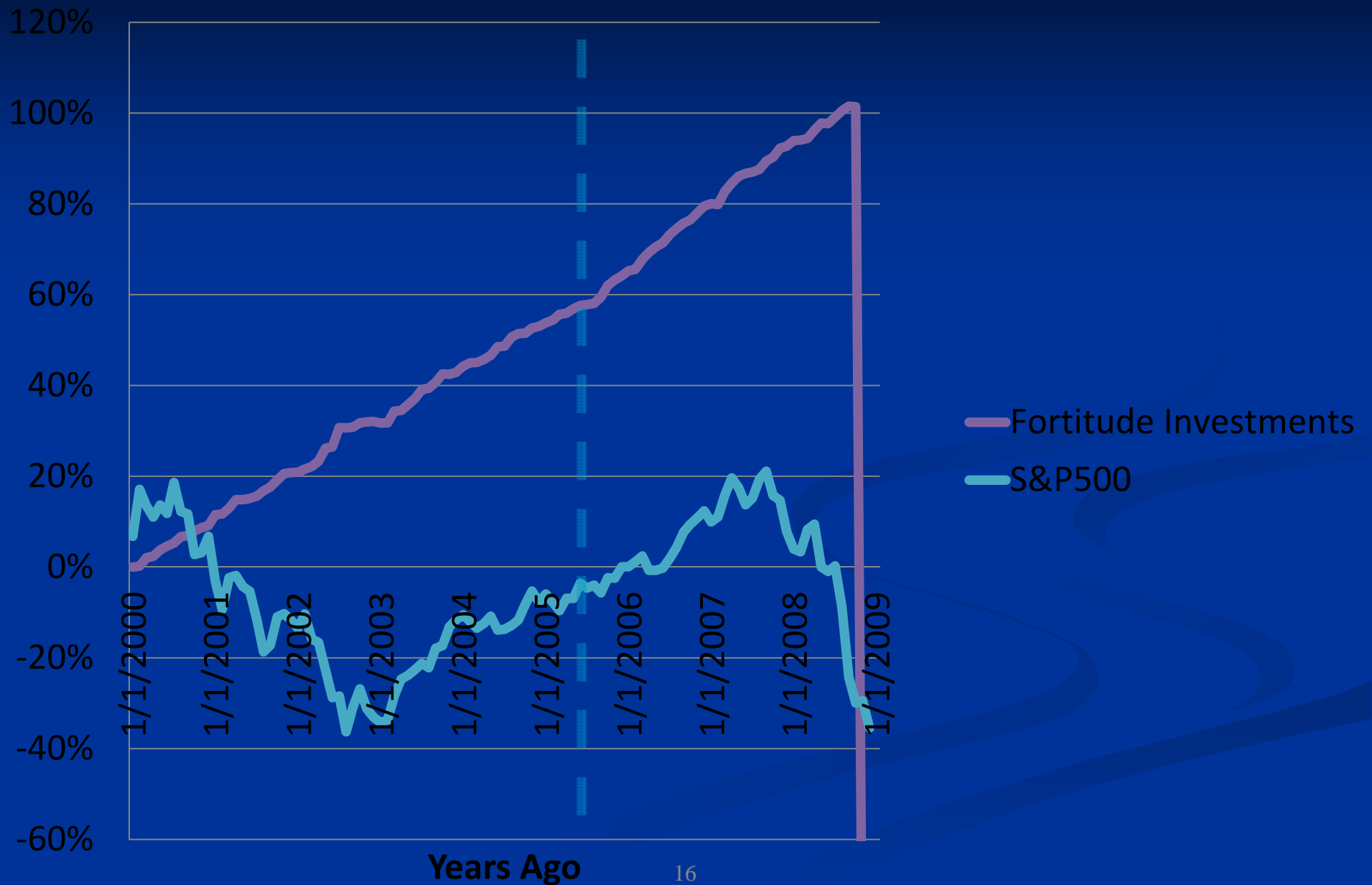
Psychologists have known for a long time that individuals with a vested self-interest, even honest ones, are incapable of unbiased (independent) judgment.

- a) Auditors have made tremendous profit from selling consulting services to their audit clients.
- b) Auditors want to be rehired.
- c) The personnel on the audit often take jobs with the client firm.

Cumulative Returns



Madoff's Feeder Fund



Some Do Notice

Bennis: “First Class Noticers”

- 1) Mike Lewis’ documentation of those who noticed the problems in the housing industry
- 2) Billy Beane and the transformation of managing in sports
- 3) The Ambassadors I met while training executives

What Can You Do?

- 1) Put it on your agenda to notice. Focusing is good, but sometimes you need to take a look around.
- 2) Take an outsider's view.
- 3) Audit your organization.
- 4) Identify changes that will help to create a noticing organization.
- 5) When something is wrong, figure out what it is.

June 17, 2005

- 1) Waking up in London at 5 AM and reading about Matthew Myers in the New York Times.
- 2) I realized that I should have acted six weeks earlier, and it was time to act now.
- 3) My story was covered by the Washington Post, and led to congressional letters demanding an investigation.
- 4) But, I recognized my earlier failure, and appreciated what Matthew Myers had done.

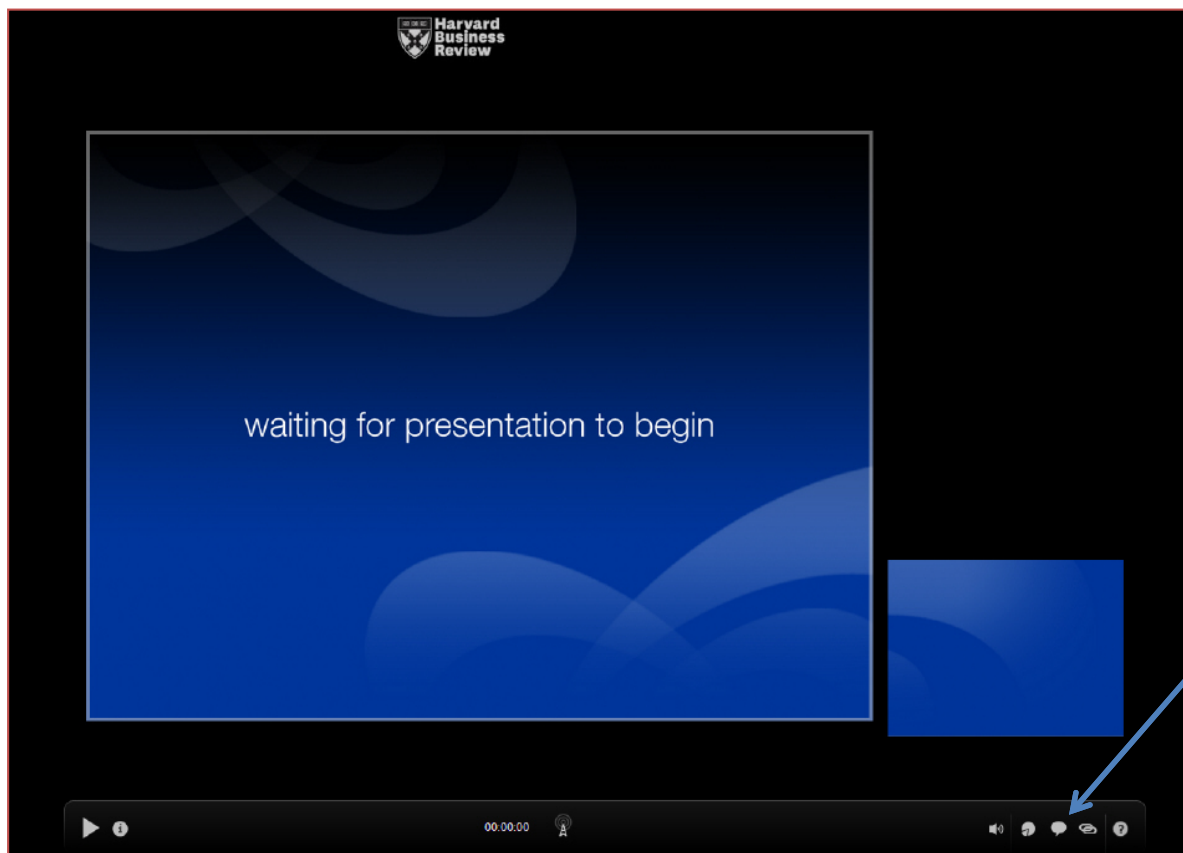
<http://www.historycommons.org>

Sharon Eubanks says that a supervisor demanded that she and her trial team drop recommendations that tobacco executives be removed from their corporate positions as a possible penalty. Her superiors instructed her to tell key witnesses to change their testimony and ordered her to read verbatim a closing argument they had rewritten for her.

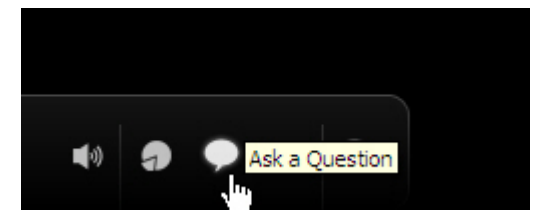
(Government lawyers also announced that they were rolling back a proposed penalty against the industry from \$130 billion to \$10 billion)....Eubanks says that she was particularly distressed when McCallum, Keisler, and Meron ordered her to read word for word a closing argument they had rewritten. The statement explained the validity of seeking a \$10 billion penalty. "I couldn't even look at the judge," she says.



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