

Wal-Mart and Payoffs in Mexico: Bribery or Extortion?

Jim Prevor's Perishable Pundit, April 24, 2012

The *New York Times* came out with a front page article titled, [Vast Mexico Bribery Case Hushed Up by Wal-Mart After Top Level Struggle](#). The article claims are specific, pointed and explosive:

In September 2005, a senior [Wal-Mart](#) lawyer received an alarming e-mail from a former executive at the company's largest foreign subsidiary, Wal-Mart de Mexico. In the e-mail and follow-up conversations, the former executive described how Wal-Mart de Mexico had orchestrated a campaign of bribery to win market dominance. In its rush to build stores, he said, the company had paid bribes to obtain permits in virtually every corner of the country.

The former executive gave names, dates and bribe amounts. He knew so much, he explained, because for years he had been the lawyer in charge of obtaining construction permits for Wal-Mart de Mexico.

Wal-Mart dispatched investigators to Mexico City, and within days they unearthed evidence of widespread bribery. They found a paper trail of hundreds of suspect payments totaling more than \$24 million. They also found documents showing that Wal-Mart de Mexico's top executives not only knew about the payments, but had taken steps to conceal them from Wal-Mart's headquarters in Bentonville, Ark. In a confidential report to his superiors, Wal-Mart's lead investigator, a former F.B.I. special agent, summed up their initial findings this way: "There is reasonable suspicion to believe that Mexican and USA laws have been violated."

The lead investigator recommended that Wal-Mart expand the investigation.

*Instead, an examination by *The New York Times* found, Wal-Mart's leaders shut it down.*

Neither American nor Mexican law enforcement officials were notified. None of Wal-Mart de Mexico's leaders were disciplined. Indeed, its chief executive, Eduardo Castro-Wright, identified by the former executive as the driving force behind years of bribery, was promoted to vice chairman of Wal-Mart in 2008. Until this article, the allegations and Wal-Mart's investigation had never been publicly disclosed.

*But *The Times*'s examination uncovered a prolonged struggle at the highest levels of Wal-Mart, a struggle that pitted the company's much publicized commitment to the highest moral and ethical standards against its relentless pursuit of growth.*

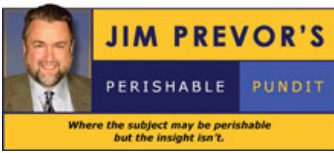
The specific allegations are that Wal-Mart's Mexican subsidiary paid "fixers," or as they are known in Mexico, "gestores" (pronounced hes-TORE-ehs), to facilitate the granting of permits and other approvals necessary to build out Wal-Mart's real estate network.

The use of *gestores* is common, and legal, in Mexico. The article makes reference to Mexicans hiring them to wait on lengthy lines to renew driver's licenses and other such things. Put in a positive light, the job of the *gestores* is to know the system and the people and make things happen.

The allegation in this case is that the *gestores*, with Wal-Mart's knowledge, went beyond friendly facilitation and paid bribes to officials to secure the needed permits.

In addition, Wal-Mart made substantial "donations" and "contributions" directly to various governmental agencies to facilitate permits being issued.

The payment to the *gestores* is shocking news only to those who have never had to do business in cultures where bribery is endemic — including Mexico. The payments direct to governments are shocking only to those who have never tried to



develop real estate — even in the United States.

We can start with the caveat that in the US, we have the [Foreign Corrupt Practices Act](#) and that this precludes the paying of bribes. Under our system of government, this is the pronounced will of the people, and Wal-Mart and everyone else is obligated to follow the rules. Payments to government officials in Mexico are illegal under Mexican law — so making such payments carries risks, regardless of cultural norms.

In this case, the story goes on to allege that although the Mexican subsidiary tried to keep everything from Bentonville, when an unhappy former employee spoke out and the story reached Bentonville, top Wal-Mart executives did not respond with alacrity, trying to stop the behavior, did not arrange for an independent investigation, and did not report the matter to the authorities — this despite the specific recommendations of Wal-Mart's internal legal team.

As is often the case, the cover-up is worse than the crime and if this report is all true, Wal-Mart may pay heavily for the failure of its top executives to act to ensure that the law was followed. Some of its executives may go to jail.

Now it is possible that nobody was actually bribed. Indeed, the basic defense that Wal-Mart de Mexico's internal report came up with is that the *gestore* payments were all a scam. There are complicated allegations that the payments were made so certain employees could get a cut. Even if this is not true, it is possible that Wal-Mart dramatically overpaid these *gestores* because it assumed they would need to pay bribes, when, in actuality, they just bought their friends a cup of coffee to facilitate things.

Assuming, though, that the executives at Wal-Mart de Mexico knew what they were doing, the real policy question is whether criminalizing this kind of behavior actually makes sense.

It is important to note that these allegations — even if 100% true — do not imply that Wal-Mart paid bribes to persuade government officials to do illegal things. In other words, Wal-Mart didn't try to get Mexico to block other retailers from opening stores or to conduct disruptive raids on competitors or deny competitors import permits.

The purpose of the payments was to facilitate the granting of permits to build stores and support facilities.

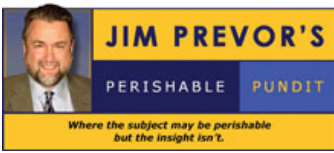
These payments may be illegal, and trying to hide them can result in misstating financials and raise other serious issues. Still, it would have been desirable if the *Times* had at least asked the question as to why Wal-Mart would spend millions and millions of dollars “facilitating” something that is supposedly available without such facilitation. Surely Wal-Mart as a corporation would rather not pay out these sums, and its people would rather avoid the risks inherent in bribery and cover-ups.

The answer, of course, is that government officials have it in their power to delay or reject permit requests. Mexico does not have a reliable and quick system for overturning such actions. In effect, said or unsaid, these bureaucrats and politicians are extorting money from Wal-Mart and many others. They are saying that they will prevent Wal-Mart from doing perfectly legal activities if Wal-Mart doesn't ante up.

We experienced this first hand. Years ago, we used to export a fair amount of Mexican watermelons to Scandinavia. At the time there was a deal whereby Scandinavia allowed the duty-free import of watermelons provided one had a certificate — called a [Generalized System of Preferences](#) or GSP certificate — that established officially that the melons were grown in Mexico.

Although theoretically the certificate should have been easy to get — it just attested to origin — the reality was quite different. Some growers, despite valiant efforts, could never seem to get the certificates. Other growers seemed to have blank certificates in their desk drawer.

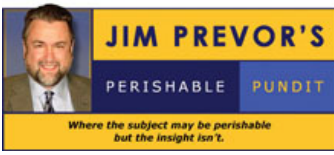
We never knew why, but we drew logical inferences from the situation.



Perishable Pundit

by Jim Prevor

If we really make companies, Wal-Mart and others, follow the rules for dealing with the Lawn & Garden Club when dealing in places that have very different expectations, we are unlikely to improve those places. We may, however, make American companies forfeit the business as others, better able to accommodate cultural expectations, get the business. Is that really what we are looking to accomplish?



Lots To Think About When It Comes To Recalling Lots

Jim Prevor's Perishable Pundit, April 24, 2012

We often receive requests to think about issues in the news. This letter is an example:

The recent [salad recall](#) got me thinking. The pattern is very familiar. A recall is triggered by a random test that showed positive for a pathogen — in this case salmonella. The processor attempts to do the “right thing” by recalling the entire lot — in this case 756 cases — even though no illnesses have been reported and the possibility exists that the test may have resulted in a false positive.

My question is if there is a possibility of contamination, how can any processor only recall the salads from the specific lot tested?

Certainly, these particular recalled cases of a specific blend were not the only product run over the packing line that day. Do they stop the line and sanitize the processing and bagging equipment each time they change the product mix?

Even if they do sanitize after every run, I assume the test didn't identify definitively what item in the bag might have introduced the pathogen.

I'm pretty certain that most of the same product from the grower's lots used in this “contaminated” lot were also used in different salads produced that day.

If processors have no idea where the contamination came from, how do they not recall everything was either run on that packing line or any other product that contains the same grower's lots used in the recalled lot?

— Alan L. Siger
President & CEO
[Consumers Produce Company](#)
Pittsburgh, Pennsylvania

Indeed, this is a pattern that we often see when there are test results positive for a pathogen — recall the whole lot to reassure the industry, regulators and consumers that steps have been taken to address any problem.

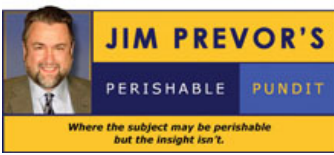
Alan is shrewdly drawing attention to the Achilles heel of this issue — do the lot numbers mean anything and, if so, what do they mean as far as food safety goes?

It is not a new issue. As far back as June, 17, 2008, we urged in this [piece](#) that lot sizes needed to be defined in such a way that they would be meaningful in terms of food safety — that is to say that there needed to be some action — a firewall, so to speak — such as sanitation by which a recall of just one lot would be meaningful.

Now most top processors are doing this, but there has not been success at getting industry consensus on this issue. We would consider it a significant hole yet to be plugged in the various food safety metrics and auditing standards.

One academic very involved in developing standards put the issue this way:

Lot definition has always been and remains a controversial topic with no clear Best Practice definition or science-based resolution that will be uniformly accepted by industry and public health regulators; certainly seems likely that current variable approaches to lot definition and lot segregation will be problematic from a consumer advocate or lay juror perspective in any litigation involving the scope of a recall.



In general, industry has adopted a Clean Up to Clean Up approach for what to include as a linked lot for a single line, as we are talking about processed salad mix. They do manage lines to specifically limit the scope of a recall impact by blend and by customer (requires or doesn't require/forbids Test to Release for pathogens on finished goods).

Beyond that, tying things back to a harvest lot or ranch block gets even more complex. There are no standard approaches that I am aware of and multiple drivers for how things are handled.

The absence of a consensus, of course, means that no standard is incorporated into popular industry audit programs. So only buyers who explore this issue really can be certain what their processor is doing. It is worth noting, of course, that although the issue typically arises in the context of processed product, the same question would bedevil any recall of bulk product run on any packing line or even cut in the field. What is the assurance that one lot is a meaningful dividing point in terms of food safety?

Industry leadership has been aware of the problem and United Fresh has long been working to find consensus. The initiative has been stewarded on staff by David Gombas, Ph.D., Senior Vice President Food Safety and Technology, and Barry Eisenberg, Ph.D., Vice President Food Safety Services at United Fresh, and they were kind enough to give us an update on the issue:

The United Fresh Food Safety & Technology Council is continuing to work on a Lot Separability white paper. Clearly, it is important for a grower (or anyone in the supply chain) to know how much product is implicated if any produce is determined to be adulterated, particularly if it's a food safety concern.

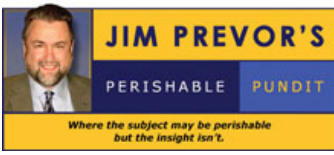
If a company doesn't know whether or how lots are separated, or whether they can't be separated, they are either going to recall too much (unnecessary economic risk) or too little (unacceptable public health risk). However, we've learned that companies typically designate "lots" based on business reasons (e.g., which customer is/was harvested/processed for, day of the week), not on a food safety basis, so it's been difficult writing a document that provides guidance without implying that those who don't follow the guidance are wrong and following a bad practice. Same reason that we don't want FDA to tell us how to define lots — once defined, it removes flexibility that may be necessary for other reasons.

When FDA is notified that food in the supply chain is adulterated, they are obligated to take action and make sure that adulterated product is removed from consumer access and that any consumers who may have the product are warned not to eat it (all stuff you know). My experience with companies contacted by FDA is that FDA generally doesn't tell the company to recall the product; they ask "are you going to recall the lot?" or "what are you going to do?", leaving it to the company to make the decision.

If the company says "no", then FDA may push the company to justify that decision. If they say "yes", then the next question is typically "how much", followed closely by "how do you know that is all that is contaminated?" That's where lot separability becomes important and, if a company can't justify why adjacent or related lots are not reasonably likely to be contaminated too, the recall tends to grow.

To your second question, it's not whether recalls of small numbers make sense — no one wants consumers to get sick from their product — it's whether there is enough information to conclude that the "lot" is really contaminated (rather than someone finding the needle in the haystack), and whether there is reasonably still enough product on shelves or in consumers' hands to warrant a public notification. For FDA, the answer is easy — "yes" to both. That's the conservative approach.

For the industry, the answer has not been that easy. We've had too much evidence from too many recalls suggesting that these lots were not a public health risk. First, the "adulteration" is usually based on a single test result — neither the point nor extent of contamination is ever identified — and by the time FDA (or the State or local public health agency — it's not always FDA) notifies the brand owner or grower of the contamination, the lot is frequently past shelf-life, meaning that most of that lot has already been consumed and there is very little, if any, left to consume.



Okay, not every illness ends up in PulseNet — I think the estimate for Salmonella is 1 in 40 illnesses — but I'm not aware of any of these single-positive-test pathogen isolates showing up in PulseNet and linked to the recalled product. How can that be?

Again, the intent of recalls is to remove contaminated product from consumer access. Does it make sense to identify and recall everything that remotely may have been associated with the contaminated lot when there is so little likely still left in commerce (and, so, little left to physically recall, whether the announcement is for 700 or 7,000 cases) and so little evidence that the lot was, in fact, contaminated?

After a while, it is human nature to eventually begin to think that none of these positive-test recalls are really a public health issue. Fortunately, none appear to have been, so far. But we (industry, government and consumers) need a better diagnostic tool to tell us when and how much of a product lot really represents a public health risk, and in enough time to do something meaningful about it.

— David Gombas

*Ph.D., Senior Vice President Food Safety and Technology
[United Fresh Produce Association](#)*

David's search for what makes sense is completely appropriate. The problem here, though, is that the trade's failure to come to a consensus is leaving the industry vulnerable to an accusation of doing PR stunts rather than meaningful food safety recalls.

Just imagine the outcry that would ensue if, one day, a company tries to do the "right thing," recalls a complete lot and someone gets sick from the lot before or after the recalled lot and it turns out that the lot was defined for business purposes — not food safety purposes? Imagine how you would feel if you were the shipper or processor on that product and you had made the call to recall just the lot as a way of assuring consumers that the problem had been contained.

The truth is that even when a pathogen is found on a test, very often tests of other leaves in the SAME BAG come back negative.

Once in a while, of course, we have had serious and substantial food safety recalls that are motivated by many people getting sick. If, however, one removes those few incidents from the database, we are not aware of any research that indicates the product in the bag produced right before or right after the bag that is found to test positive is any more likely to test positive than any other bag ten lots away.

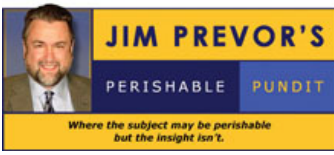
This means, of course, that no recall at all is actually justified by science. The recall is really, in the spirit of the famous [Tylenol recall](#), a confidence-building measure. The size of the recall is a kind of split-the-difference number to avoid extraordinary expense and yet still be seen as doing something.

Of course, it is not clear that all this specificity actually means much anyway. As David Gombas points out, most of the product is typically long gone by the time such recalls are announced. Beyond this, though, many retailers ignore such detailed recalls and remove all of that product from the shelves, everything from that shipper, etc.

Partly they do this because most retail executives don't trust their own systems and employees to get rid of specific lot numbers, partly because it is expensive to check each bag individually and, partly, because they have the luxury of billing back suppliers for the product the retailer removes from distribution.

When one is not paying for the recall, it is easier to opt for a more expansive recall.

Alan Siger's comments about the other uses to which product from growers may have been put is less discussed but no less important. Maintaining these types of records is as much a part of traceability as anything else and, once again, the industry leaves itself vulnerable if we recall a lot of salad that includes Romaine but we don't do anything regarding the



rest of that farmer's Romaine that was probably used in ten different products.

We discussed this issue in an interview with Michael McCartney, which you can read [here](#).

Because the science here is so limited and so our ability to say that we have significantly reduced food safety risk through any of these actions is so weak, we have to view these lot-based recalls as sort of common-sense expression of reasonable action.

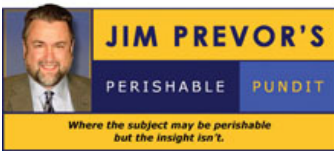
This means that if the trade's policy toward this was on the front page of *The New York Times* — and it is reasonable to think that one day it will be — we want a policy that would be perceived as intellectually coherent.

Consumers have an interest in economical food, so simply taking a maximal position and saying that everything that can be recalled should be — damn the expense, full speed ahead — is probably not prudent. But if the question Alan Siger asked the Pundit was instead put to the California Leafy Greens Marketing Agreement or WGA or United or PMA — all of them should be able to offer a definition of what a lot means, be able to articulate standards by which the trade goes back to the grower lot and, in general, be upstanding, logical and straight-forward.

That probably means that United ought to get that White Paper done, which means the trade needs to make it a priority.

All these things are easy to set aside, but the whole point is to settle the issue before a crisis hits and before we have to explain things before Congress or the public.

Many thanks to Alan Siger of Consumers Produce in Pittsburgh for leading us to think through this important topic.



Thinking About The Secret Service Scandal — Implications For Food Safety And Employee Management

Jim Prevor's Perishable Pundit, April 24, 2012

The Secret Service scandal involving the alleged use of prostitutes by the president's advance team in Colombia has been much written about. We don't have to dissect the issue here.

Things are interconnected though. Many have argued that food safety, for example, can only be secured with government employees, implying that these are somehow always more reliable than private employees. Yet, events such as what happened in Colombia should give us pause. After all, the Secret Service is the elite of the elite. These men are the private bodyguards of the President of the United States, the most powerful man in the world. Yet our hiring, training and monitoring is insufficient to stop them from consorting with prostitutes, drinking and carousing while on official business. On what basis can we possibly assume that lower level government employees can be counted on to act with propriety in

the enforcement of their duties?

Beyond the public policy case, there is a business lesson here and Mark Steyn, the Canadian political commentator and cultural critic, caught the essence of that lesson in his column, [Grope and Change](#) (subtitled *It's time to halve the motorcade, halve the security detail, halve the hookers*):

What we know so far is this: All eleven Secret Service men and all ten U.S. military personnel staying at the Hotel Caribe are alleged to have had "escorts" in their rooms that night. All of them. The entire team.

Twenty-one U.S. public servants. Twenty-one Colombian whores. Unless a couple of the senior guys splashed out for the two-girl special. "Some of them were saying they didn't know they were prostitutes," explained Congressman Peter King, chairman of the House Homeland Security Committee.

"Some are saying they were women at the bar."

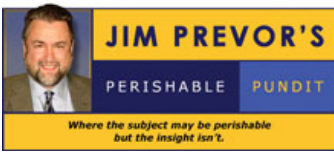
Amazing to hear government agents channeling Dudley Moore in Arthur: "You're a hooker? I thought I was doing so well." It turns out U.S. Secret Service agents are the only men who can walk into a Colombian nightclub and not spot the professionals. Are they really the guys you want protecting the president?

Congress is not happy about this. "It was totally wrong to take a foreign national back to a hotel when the president is about to arrive," said Representative King.

It's wrong to take a "foreign national" up to the room, but it would have been okay if she'd been from Des Moines? We're all in favor of outsourcing, but in compliance with Section 27(e)viii of the PATRIOT Act, this is the one [job Americans](#) will do?

With respect to the congressman, sometimes it helps to step back and consider the bigger picture. Why were 21 officials of the United States government able to enjoy a night of pleasure with 21 prostitutes, whether "foreign nationals" or all-American? The answer isn't difficult. Indeed, one retired agent spelled it out: "They just didn't have anything to do."

So they did Dania Suarez and her friends instead.



The 21 dedicated public servants jetted in on the so-called car-planes, the big transports flying in the tinted-windowed black Suburbans for the presidential motorcade. The “car-plane” guys show up a few days in advance, but usually two weeks or so after the really advanced advance team has hit the ground. And there was nothing for them to do. There is no reason for them to be there.

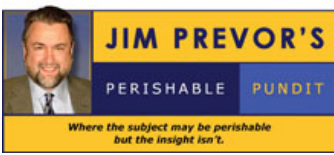
So instead they went to the Pleyclub.

...the more guys on the payroll, the less anyone does. For all the hooker-cavorting among a bored entourage with time on its hands, there was no one to proofread President Obama’s speech. So he stood up in public and attempted to pander to the Latins by referring to the sovereign British territory of the Falkland Islands by the designation of its temporary Argentine usurpers 30 years ago: “Las Malvinas.” Except that his writers got it wrong. So the president of the United States called it “the Maldives,” an entirely different bit of British Commonwealth real estate half a world away in the Indian Ocean....

Two big lessons here:

1. Throwing lots of resources at problems doesn’t necessarily equate to better solutions.
2. Staff needs to be managed.

One can rightly say that the Secret Service agents should have known better and, indeed, they should have. But Grandma Pundit used to say that “Idle hands do the Devil’s work.” Seems like a thought all management should keep in mind.



Nanotechnology And Food: FDA Speaks Out. Will Industry Act To Avoid The PR Mistakes Made In Introducing GMOs To The General Public?

Jim Prevor's Perishable Pundit, April 24, 2012

During the course of my father's battle with [pancreatic cancer](#), I constantly came across references to the future use of [nanotechnology](#) in medicine. From [nanoparticles](#) specially engineered to deliver [chemotherapy](#) to [nanobots](#) that would one day give us virtual immortality by constantly keeping our bodies in repair, nanotechnology promises to change the world as we know it.

It may also change the food supply — both food itself and food packaging. This technical piece, [Nanotechnology and its applications in the food sector](#), gives a heads-up:

Nanoscience and nanotechnology are new frontiers of this century. Their applications to the agriculture and food sector are relatively recent compared with their use in drug delivery and pharmaceuticals. Smart delivery of nutrients, bioseparation of proteins, rapid sampling of biological and chemical contaminants and nanoencapsulation of nutraceuticals are some of the emerging topics of nanotechnology for food and agriculture.

Advances in technologies, such as DNA microarrays, microelectromechanical systems and microfluidics, will enable the realization of the potential of nanotechnology for food applications. In this review, we intended to summarize the applications of nanotechnology relevant to food and nutraceuticals together with identifying the outstanding challenges...

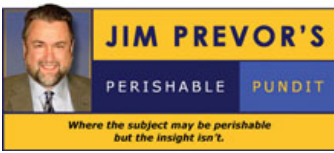
Nanotechnology is becoming increasingly important for the food sector. Promising results and applications are already being developed in the areas of food packaging and food safety. The incorporation of nanomaterials into food packaging is expected to improve the barrier properties of packaging materials and should thereby help to reduce the use of valuable raw materials and the generation of waste. Edible nanolaminates could find applications in fresh fruits and vegetables, bakery products and confectionery, where they might protect the food from moisture, lipids, gases, off-flavors and odors

One of the top areas of research is the development of [nanosensors](#), which would be placed in packaging and would detect microorganisms including pathogens. Forget test-and-hold — these products would monitor the produce continuously until it is consumed. Every fresh-cut company of size should have R&D efforts focused in this area. One wonders if the [Center for Produce Safety](#) couldn't fund some research to accelerate applications in this area,

The FDA sees the future as well, and so it has issued some draft guidance: [Assessing the Effects of Significant Manufacturing Process Changes, Including Emerging Technologies, on the Safety and Regulatory Status of Food Ingredients and Food Contact Substances, Including Food Ingredients that are Color Additives](#).

FDA also issued a [fact sheet](#). The gist is that nanotechnology may require additional regulatory review than the "traditionally recognized as safe" standard that food has traditionally enjoyed.

The chemical and food industries pretty much botched the introduction of genetically modified foods. Let us see if they can do a better job with this important technology.



When Did Internships Become Slave Labor Instead Of Opportunities To Develop Relationships And Knowledge About A Chosen Field?

Jim Prevor's Perishable Pundit, April 24, 2012

The New York Times Magazine has a regular column called *The Ethicist*, which is currently written by Ariel Kaminer, whose previous job was editor of the Arts & Leisure section of *The New York Times*.

The title of a recent column was [The Internship Rip-Off](#). As is customary, the column was built around a letter received from a reader:

I took an unpaid internship that I figured would give me experience and help me land somewhere in six months. Instead I'm picking up coffee and dry cleaning and performing other tasks that the company would otherwise have to pay someone for. I know this is the status quo for internships, but it violates the law, and it feels deeply unethical. Taking legal recourse would hurt my career prospects. Is there anything I can demand of this company in exchange for my slave labor?

NAME WITHHELD, NEW YORK

Ms. Kaminer goes on to blast unpaid internships as inherently unethical because the internships can only be taken by people who don't need a paycheck and thus give an advantage to the rich.

Although she acknowledges the practical difficulties of enforcing any such rights, Ms. Kaminer feels the letter-writer as "a matter of ethics" has a case. Ms. Kaminer states that the letter-writer "should be able to demand, or at least expect, that the internship offer a worthwhile return on the time and money you put into it — namely, a better sense of whether and how to pursue a career in that field, and the skills or relationships with which to do so."

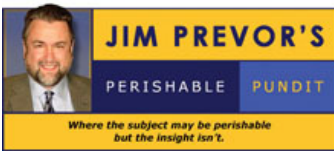
Ms. Kaminer also claims that unpaid internships are illegal under the Fair Labor Standards Act, and since being upfront about his or her complaints could ruin the intern's reputation in the field, Ms. Kaminer suggests that the intern consider making a confidential complaint to the Labor Department.

The piece is interesting for several reasons. First, the whole approach has little to do with ethics as conventionally understood. For example, a core ethical issue is truth-telling. Yet this letter never says the intern was deceived or misled. The letter-writer says what he or she "figured," but how the intern came to figure that is unrevealed. Since it seems as if the letter-writer would tell us how he or she had been duped or deceived, we have to conclude either that the internship provider was frank or that the letter-writer never cared enough to ask what an intern's duties would be.

We don't actually know what field this internship is in, but very possibly the letter-writer, rather than revealing a flaw of the internship, is revealing that he or she doesn't know how to take advantage of the internship. In many cases, internships are valuable not because of the actual skills one learns while interning but because of the opportunity to develop contacts and make an impression on people in one's chosen field who might be able to help one's career.

This letter-writer sees getting cappuccino as degrading or insignificant but in the recently revived Broadway show, [How to Succeed in Business Without Really Trying](#), the two upwardly mobile protagonists, while working in the mailroom, fight over the opportunity to deliver the executive mail. Why? Obviously it is an opportunity to make an impression on people who can provide opportunities.

The letter-writer also shows no evidence of any initiative. In other words, if one gets an internship at *The New York Times*, and if one has ambitions to be a writer, perhaps one can work late nights on a story, then drop off a manuscript with an



editor who one sees every week while delivering her Venti Soy Latte. At very least, one could ask if there was any way one could get a shot at doing some other work.

We have the strong suspicion that since this letter-writer has persuaded himself or herself that he or she is providing “slave labor” — although, of course, the intern is free to leave any time if he has a better offer or even if he doesn’t, which makes this comment an insult to slaves throughout history — this intern has already been typed as having a “bad attitude,” and nobody wants to spend time with the intern on substantive work.

After all, although the letter-writer acknowledges that doing various non-work-related tasks is “status quo for internships” — meaning the intern knowingly accepted a position doing exactly what he or she is doing — the intern has somehow decided that it “feels deeply unethical,” and although the legal status of the internship would not be any different if the intern were typing manuscripts or getting coffee, the intern really would like to pursue legal recourse against the firm that offered the internship opportunity.

The allegations of illegality are not really very meaningful. Yes, for-profit companies are not generally permitted to have interns work for free — the exception generally being if the program is university-sponsored and the student is getting credit for it. However, non-profits and government are generally permitted to have volunteer interns. The requirement, though, is just to pay minimum wage. There is little indication here that this particular intern would be all that much happier by getting minimum wage.

One could argue the law a bad one and should be changed. If two people come to a deal, where one wants exposure or experience and the other wants help getting coffee, it is not completely obvious why this should be banned. Still, for now, the law is the law.

Ms. Kaminer’s critique of non-paid internships as sops for the rich strikes us as not the critique it used to be. Today there are substantial student grants and loans available, and the alternative is often not working in the coal mine or even Starbucks, the alternative is doing another semester at the university.

The New York Times actually ran an article titled, “[Placing the Blame as Students Are Buried in Debt](#),” which told the story of Cortney Munna, who racked up almost \$100,000 in debt getting her degree in “religious and women’s studies” at NYU.

Is it completely clear that allowing Ms. Munna to pay good money for a semester studying such a subject is less abusive than giving such a person the opportunity to meet influential people in a field of her choice?

The Ethicist ought to ponder that for awhile.