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Photograph by Andrew Hetherington for Fortune

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The Trader Seeking Revenge Against U.S. Attorney Preet Bharara

David Ganek lost his hedge fund after getting caught up in an insider trading investigation. Now he's suing.

The anger is always lurking just below the surface for David Ganek. And as the pugnacious money manager begins to recount the events

that led him to lose his hedge fund business, his influence as a patron of contemporary art, his status in Manhattan society, and some of his longtime friends, it threatens to boil over.

We're sitting in a large conference room in Ganek's office on the 45th floor of a Midtown Manhattan office building, just a few blocks away from where he used to preside over the \$4 billion Level Global Investors fund. Ganek took the space a few years ago as a home base for managing his own portfolio and overseeing his charitable work. But it still has a temporary feel, as if he's just camping out. There isn't the chic modern art on the walls that one might expect from a noted collector, as Ganek has been for years. And the quiet is almost eerie. Other than the receptionist, there doesn't appear to be anyone else around. It feels strangely still for a natural-born trader who used to live his work 24/7, monitoring a "constant ticker tape of communication."

These days Ganek, 53, spends much of his energy plotting his revenge on the federal authorities he accuses of wronging him. And the more we delve into his favorite subject—his legal case—the more agitated he becomes. "If the government's misconduct didn't make me furious, I wouldn't have filed the lawsuit," he says, his body tensing and his voice rising. "But that's good news and bad news for me. I filed the lawsuit because it makes me so furious."

He pauses and adds, "As much hell as I went through, if the system works as I have every reason to believe it does, it will be even more hell for them, given the severity of their misconduct."

The primary target of Ganek's ire is Preet Bharara, the powerful U.S. Attorney for the extremely powerful Southern District of New York (SDNY). In early 2015, Ganek filed a lawsuit against Bharara, as well as 14 other current and former FBI agents and prosecutors. Ganek's chief allegation is that the defendants, including Bharara, used false evidence about him when, in the midst of their crackdown on insider trading, they got a search warrant to raid his fund, Level Global. The raid, which happened in 2010, made headlines around the world. "**The Day of Hedge Fund Reckoning**," the *New York Observer* called it.

Ganek's suit has set up a potentially explosive confrontation—one that reads like an episode of the Showtime drama *Billions*—between an unlikely set of characters. And the implications for the chief protagonists on each side could be profound on both personal and professional fronts.

Ganek's motivations appear elemental: redemption and payback. Until Bharara came along, Ganek was a prototypical master of the universe. Although he was never charged with a crime, the raid, with its connotation of guilt, says Ganek, spooked his investors and left people whispering about his reputation. Now his mission, maybe even his obsession, is taking down the man he thinks wrecked his life.

For Bharara, the lawsuit is a blow to the reputation of a once unimpeachable office—one that has already seen its prestige take some hits. The formidable federal prosecutor led the SDNY to a string of unprecedented victories on insider-trading cases after his appointment in 2009. But in 2014 an appeals court not only reversed two of Bharara's most prominent convictions—including that of Ganek's junior partner—but also delivered a broadside to Bharara himself, citing the “doctrinal novelty” of the SDNY's approach. (The ruling was seen as a damaging precedent that would impair future enforcement of laws against insider trading, but a recent Supreme Court decision in another case has cheered prosecutors. For more, see the box below.)



U.S. Attorney Preet Bharara has won dozens of insider-trading convictions and media plaudits, but some have questioned his aggressive style.

Photo: Jesse Dittmar—Redux

INSIDER-TRADING LAW: A SUPREME COURT RULING GIVES PROSECUTORS A BOOST

In December, the Supreme Court handed down its first ruling about insider trading in more than two decades. It affirmed the conviction of a grocery wholesaler named Bassam Salman, who traded on tips from his banker brother-in-law, making hundreds of thousands of dollars in the process. Lawyers for Salman pointed to the precedent set in the overturned convictions of traders Todd Newman and Anthony Chiasson in 2014. They argued

that because Salman's brother-in-law didn't receive any financial benefit from passing information, it wasn't insider trading. For more on Todd Newman, see "[The Hedge Fund Trader Who Beat the Feds.](#)"

That argument failed to fly with the justices. In a unanimous ruling the court found that giving a gift of tradable information to a friend or relative creates a benefit even if no cash or goodies change hands. "[T]he tipper benefits personally because giving a gift of trading information is the same thing as trading by the tipper followed by a gift of the proceeds," wrote Justice Samuel Alito. The decision was hailed by U.S. Attorney Preet Bharara of the Southern District of New York, who called it a matter of common sense. Observers predict the ruling could renew the appetite of prosecutors, cowed by the *Newman* ruling, to pursue insider-trading cases.

But while the Supreme Court decision called into question a significant part of the *Newman* ruling, it does not necessarily suggest the outcome of that case should have been different. Unlike the grocer and his brother-in-law, the hedge fund bosses at the center of it were several steps removed from those who used the confidential information.

Bottom line: Insider trading is still a gray area, but prosecutors are back in business. —Jeff John Roberts

If Ganek's case moves into discovery, it threatens to shed a very public and ugly light on the process prosecutors use to put people in jail. After meeting with President-elect Donald Trump in late November, Bharara announced that he had "agreed to stay on" as the head of the SDNY. That means he will still be in office as the lawsuit plays out.

The advertisement banner for Kia includes the following elements from left to right: the Kia logo above the slogan "MADE FOR [CONQUERING WINTER]"; a large "0%" with "FINANCING ON ALL 2017s" below it; a red plus sign; "\$1,000 ALL-WHEEL DRIVE BONUS ON SELECT MODELS"; and a red button with the text "SEE OFFERS >".

Adding to the high-profile nature of the case is Ganek's surprising partner in his crusade—his celebrity attorney, Barry Scheck. Scheck, who played himself in the CBS drama series *The Good Wife*, is the rumpled lawyer still best known to many Americans as a member of the team that defended O.J. Simpson against murder charges in the early 1990s. He's also the cofounder of the Innocence Project, which uses DNA evidence to exonerate people of crimes for which they were wrongfully convicted. Scheck is not, as Ganek says, someone who is typically "into protecting the rights of hedge fund managers." When asked if he ever thought he would represent a hedgie, Scheck offers a blunt "No." But he argues that what happened to Ganek speaks to a deeper problem with all-powerful prosecutors who can serve as jury, judge, and executioner. "This is an issue of principle and professionalism," he says.

Neither the defendants, including Bharara, nor the SDNY will comment. But in legal filings, Bharara's office has called Ganek's



Celebrity attorney Barry Scheck, known for defending O.J. Simpson and for having played himself on TV's *The Good Wife*, is representing Ganek. He says prosecutors had a "duty to correct" the record if the affidavit that led to the raid of Level Global included incorrect information.

Photo: Monica Schipper—Getty Images

allegations "grandiose," "farfetched," and "wholly implausible." Lawsuits against federal prosecutors are rare, and the bar is high for cases alleging this kind of government misconduct. However, last spring, Judge William Pauley allowed the suit to move forward. "Discovery is now appropriate to ascertain whether this case is about a simple misunderstanding or whether something more troubling was afoot," he wrote in his opinion.

Bharara then took the unusual step—available only to the government—of appealing Pauley's decision, which has put discovery on hold. In late November the National Association of Criminal Defense Lawyers (NACDL), a professional bar association for public defenders and private criminal defense lawyers, filed a brief supporting Ganek's case, noting that while it isn't in a position to comment on the underlying merits of Ganek's charges, the "allegations as detailed ... describe a serious case of misconduct," and a lawsuit is the only means by which they will even get heard. "In many respects, this case is extraordinary," wrote the NACDL. "It's not every day that the United States Attorney for the Southern District of New York is alleged to

be so directly involved in the allegations underlying a civil rights lawsuit."

Ganek worries about some form of retribution. But he relishes the chance for the whole world to hear the details of his story—the ones he replays over and over in his head. "As much as people think it's crazy to poke the bear," he says, "it's much more productive poking than being poked."

WHEN BHARARA took office in August 2009, his predecessor at the SDNY had already gotten wiretaps on Raj Rajaratnam, the billionaire founder of hedge fund Galleon Group. That October, FBI agents arrested Rajaratnam at his multimillion-dollar Manhattan

apartment. (Rajaratnam would be convicted in 2011.) Bharara said the arrest should serve as a “wake-up call” for hedge fund managers, adding, “We are targeting white-collar insider-trading rings with the same powerful investigative tools that have worked so successfully against the mob and drug cartels.”

Some cynics saw Bharara’s aggressive insider-trading prosecutions as a ploy to distract from the government’s failure to prosecute anyone in the wake of the financial crisis. But Bharara nonetheless gained enormous plaudits in the media. *Time* put him on a 2012 cover under the headline “**This Man Is Busting Wall Street.**”

It soon became common knowledge on Wall Street that Bharara and his team had their sights on an even bigger target than Rajaratnam: Steve Cohen, the multibillionaire founder of hedge fund SAC Capital and David Ganek’s former boss. That put Ganek right in the firing line. (In 2013, Cohen’s fund, SAC Capital, pleaded guilty to criminal charges of insider trading, paid a \$1.8 billion fine, and stopped managing money for outside investors. Cohen will be free to take on outside investors again in 2018.) *For more on Steve Cohen, see “**Inside Billionaire Steve Cohen’s Comeback.**”*

The son of a prominent Manhattan money manager, Ganek had worked in finance since graduating from Franklin & Marshall College in 1985. It was all he had ever wanted to do. In 1996, he went to work for Cohen, just as SAC was beginning a run of spectacular returns that made Cohen a legend in the industry. Ganek became one of the firm’s biggest moneymakers, thanks in part to shorting the technology bubble before it burst in 2000. In 2003 he left SAC with a junior partner named Anthony Chiasson to start his own fund. He named it Level Global, with the idea that it would produce stable returns through times both good and bad.

Ganek didn't shy away from the spotlight that came with his immense financial success. In 2006 he joined the board of the Guggenheim Museum. He and his wife, Danielle, a former fashion-editor-turned-novelist, reportedly paid \$19 million to purchase a duplex that had once belonged to Jacqueline Kennedy Onassis at 740 Park Avenue, Manhattan's most gilded address and the same building where Blackstone CEO Steve Schwarzman and Treasury Secretary nominee Steve Mnuchin live. Ganek and his wife were regulars on the party circuit, and they also bought the requisite estate in the Hamptons, where they threw charity bashes for hundreds of people.

He says it wasn't deliberate, but Ganek also did his part to help create the cliché of the hedge fund manager who dabbles in art. He had begun collecting back in 1981, he says, long before doing so became de rigueur for hedgies. He and Cohen shared the same adviser, and at various times, Ganek owned works by artists beloved by the hedge fund set: Damien Hirst, Richard Prince, Cindy Sherman, and Jeff Koons.

At Level Global, Ganek did not earn a reputation as a likable boss. When I ask a former senior employee if Ganek was a bad guy, this person responds, "No. He is the worst guy ever." But it was an issue of personality, not ethics. There were complaints that Ganek was cheap when it came to bonus time, and he could have a vicious temper. The former employee nevertheless says that Ganek was conservative when it came to compliance, with a strict set of internal rules. "There was never pressure to get close to the line," this person says.

Another employee says that Ganek was a tough boss but adds that the hedge fund business is itself a tough one, filled with prickly personalities, and that Ganek was always fair. This person seconds the notion that Level Global did deep research and was not a fund that was driven by a quest for edge.




David Ganek photographed in his offices on Dec. 14, 2016.

Photograph by Andrew Hetherington for Fortune

Ganek shrugs off criticism of his style: “It wasn’t my objective to be liked by everyone.” But he says that everyone was paid a bonus. And he stresses that even after the raid only one employee left the fund before Level Global shut down.

Likable or not, Ganek built a solid business. Level Global didn’t blow the lights out, but it fulfilled its promise of balanced performance. Over seven years it produced an average annual return net of fees of 12%, and it even weathered the financial crisis of 2008 with only small losses. By 2010, Ganek, who had started with around \$500 million, was managing some \$4 billion. He had 60 employees, and earlier that year he had sold a piece of his business to **Goldman Sachs** (**GS** ▲ **0.98%**) in a deal that valued his company at \$400 million.



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Then came the Nov. 22, 2010, raid on Level Global, along with two other hedge funds, including the \$5 billion Diamondback Capital Management, co-managed by Steve Cohen’s brother-in-law Richard Schimel. (Schimel was never charged with a crime.) “There wasn’t a day of my life up until the minute this happened that I ever thought something like this could happen,” says Ganek. “It was unimaginable.”

Indeed, in a typical insider-trading investigation, prosecutors subpoena records and conduct a methodical probe. The government’s decision to raid the three funds was a dramatic deviation from its usual procedure.


“There wasn’t a day of my life that I ever thought something like this could happen,” says Ganek. “It was unimaginable.”

The Fourth Amendment provides protection from “unreasonable searches and seizures,” so to get a judge to sign a search warrant for, say, an individual’s office, the government has to present a sworn affidavit, demonstrating that there is probable cause to believe incriminating evidence will be found there. A raid doesn’t mean the individual is guilty. But practically speaking, it often gets interpreted that way, particularly in a white-collar case.

Ganek, along with Chiasson and one other employee, was personally named on the warrant. Along with all the documents in Ganek's office and his personal cell phone, the agents carted off Ganek's list of artwork and a folder labeled "S/A/C/ Correspondence." The media seized on the story. "**Targeted Hedge Funds Are Toast**," blared the *New York Post*, which noted that investors would run at the first sign of trouble.



The day after the raid was Danielle's birthday, and Ganek remembers trying desperately to remain stoic through dinner at Manhattan's Palm restaurant with his wife and three children. He knew his reputation had just taken a major hit. "I also knew that there wasn't anything I could do about it," he says. "It would be like blowing into a tornado."

For Ganek, it kicked off a dark period, marked by an uncertainty that was particularly maddening for the trader. "The worst thing for market participants is fear of the unknown," he says. "Once you know what it is, you can take action. But that's not the way the government plays ball."



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Being named on a search warrant doesn't give you the right to see the underlying affidavit or to learn anything about what the government's case against you might be. For that, you have to wait until you're charged.

But investors weren't willing to be patient. Their capital was at risk and they wanted to know if Ganek had been named on the warrant. When he couldn't say no, they began to pull out their money.

Ganek tried desperately to save his business. On Dec. 20, a month after the raid, his lawyers met with representatives of the SDNY, including Rich Zabel, then the chief of the criminal division, and David Leibowitz, a prosecutor on the case. Ganek's legal team pressed the prosecutors on whether or not they were sure of their facts and emphasized that the uncertainty was dooming Ganek's fund. According to Ganek's lawsuit, Zabel and Leibowitz informed Level Global's lawyers that the commercial consequences of the raid "had been carefully considered at the highest levels."

There was some history between Ganek and Zabel. Rich Zabel's father is William Zabel, a name partner in the law firm Shulte Roth & Zabel, which specializes in doing work for hedge funds. But more to the point in Ganek's mind: He and Rich Zabel were rivals on the squash court.



Richard Zabel prosecuted Ganek's case while at the US Attorney's office. The two played against each other in the finals of the Harmonie Club squash championship multiple times between 1985 and 2000.

Photo: Eric Thayer—Reuters

Squash has been a key part of Ganek's life. He played at Franklin & Marshall, where he was the captain of the team, and he remains devoted to the sport. (In early 2014, he donated \$2 million to the U.S. Squash program to fund the hiring of a national coach for the first time.) Zabel, meanwhile, captained the squash team at Princeton and won two national championships by the time he graduated in 1983. Through their families, both were members of Manhattan's private Harmonie Club. Ganek says the two faced off against each other in the finals of the Harmonie Club squash championship multiple times between 1985 and 2000, and the rivalry was fierce.

Zabel won't comment, but Ganek says the antagonism between the two was long-standing and mutual—and a conflict of interest for Zabel. "Shouldn't he have recused himself?" Ganek asks. Several lawyers I spoke with, however, didn't consider past squash showdowns to be a problem.

In a last-ditch effort, Ganek hired another lawyer who had a personal relationship with Bharara. Ganek says this lawyer told him that if an internal investigation found that Ganek was clean, he would personally appeal to Bharara. On Feb. 4, 2011, this lawyer met with Bharara, and asked him to provide assurances that Ganek wasn't at risk of being charged. Bharara responded that he was "unable to do anything ... that would help Level Global," according to Ganek.

With his investors continuing to bail, on Feb. 11, 2011, Ganek announced that he was shutting down Level Global. He set up a new family office to trade his own money and named it Apocalypse 22 after a word painting by Christopher Wool he had once owned called *Apocalypse Now*.

IT WASN'T UNTIL early 2012, well over a year after the raid, that the government indicted Ganek's junior partner, Anthony Chiasson, and others, including Todd Newman, a trader at Diamondback. That's when it came out that a former junior employee at Level Global named Sam Adondakis, who had been forced to leave in the spring of 2010 for compliance reasons, was cooperating with the government. The government alleged that Adondakis and others were part of a long chain—even Adondakis was several steps removed from the sources—who were getting information passed to them from company insiders at Dell and Nvidia ([NVDA ▲ 1.46%](#)).

Ganek wasn't charged. But Chiasson's lawyers were thinking about asking Ganek to testify, and the judge allowed the affidavit to be disclosed to the defendants and prospective witnesses. That's when Ganek learned that, according to the affidavit, Adondakis had told the government that he had provided inside information to Ganek, that Ganek had traded on it, and, critically, that Adondakis had "informed Ganek of the sources of the inside information." (You can't be guilty of insider trading unless you knew, or should have known, that an insider breached his or her fiduciary duty.) There were no specifics, and although the affidavit was 32 pages long, Ganek wasn't mentioned anywhere else.



Diamondback Capital trader Todd Newman was convicted along with Level Global's Chiasson but both had their convictions overturned on appeal in 2014.

Photo: Brandon McDermid—Reuters

Sources close to Chiasson say that he likened being indicted to “being buried alive,” and also say that he was repeatedly told that he could get leniency if he cooperated with the investigation—and if he gave the government Ganek. But despite immense pressure, he did neither.

As Chiasson's case headed to trial in the fall of 2012, what Ganek calls his “well-built life” began to crumble. “It wasn't, ‘Your kids can't play with mine,’ but you quickly found out who your friends were,” he says. “A lot of friends and business contacts wouldn't take calls from me. I was told they were afraid I was wearing a wire. They cut me out of their lives.”

He began to adjust to his new reality. Ganek is still very well off, and he continues to work and invest privately. But without hedge fund compensation, art has become more of a business than a pleasure for him. He has delayed plans to give his collection to a museum, and no longer feels like he can give the millions in cash and art that are expected with prominent board positions. In 2013, he stepped down from the board of the Guggenheim.

“New York is a very transactional town,” Soros told Ganek. “If your

transaction has gone bad, it's a very tough place to be.”

One of the more interesting meetings Ganek had after his fund shuttered was with the multi-billionaire hedge fund manager George Soros, with whom he plays backgammon. “He was kind enough to reach out and invite me to dinner,” says Ganek. “He asked me how I was doing in New York. I said it was tough. It’s a hard place to have public problems. He said, ‘New York is a very transactional town. If your transaction has gone bad, it’s a very tough place to be.’ ”

“Think about it,” says Danielle Ganek. “Is there anything more devastating to a person’s soul than a false accusation? My husband was never actually [charged with] anything, but in a very public and loud fashion the question was deliberately raised. It was very painful.”

WHEN CHIASSON’S TRIAL finally began, Ganek’s pain turned to shock. He was stunned to learn that a critical allegation supporting the government’s warrant appeared to be false.

When Adondakis was put on the stand, he said he had never told Ganek that the information was coming directly from contacts at Dell. And an FBI agent corroborated that statement. “Mr. Adondakis did not say that he told Mr. Ganek that the Dell information was coming from a source inside Dell,” the agent testified.

Although both Chiasson and Newman were convicted, that trial turned out to be what Ganek calls “the peak of the bubble for prosecutorial victories.” The two traders immediately appealed; their convictions were overturned two years later, in December 2014.

At this point, it all could have been over. “Most people would slink off into the corner and lick their wounds,” says John Carroll, a Skadden Arps lawyer and former SDNY prosecutor who represented Ganek. Ganek didn’t think he had much left to lose. In his view, he had lost his business because of false information in an affidavit. As he thought about it, his outrage grew. Even if it had initially been just a mistake, wouldn’t the prosecutors, up to Bharara, have discovered and fixed the error when pressed by his lawyers to be sure of their facts?



Ganek's junior partner at Level Global, Anthony Chiasson, was convicted of insider trading in 2012 but had his conviction overturned on appeal in 2014.

Photo: Peter Foley—Bloomberg via Getty Images

But the outright false information in the affidavit wasn't the only issue. The way it was written was also misleading, argues Ganek's lawsuit. The affidavit justified the raid in part by stating that a hedge fund was destroying evidence of insider trading. If you read it quickly, you would think the fund in question must be one of those that was to be raided. But in fact, it was a tiny two-man shop with no connections to any of the firms that were raided on Nov. 22, 2010.

Furthermore, says Ganek, none of the information the government got during the raid of Level Global was used in the indictment. (The government ultimately got the information used to indict Chiasson the traditional way—via subpoenas.)

In Ganek's mind, the unjustness of the raid, combined with what he sees as the illegality of putting his name on the search warrant, turned into a bitter stew. "All of these things combined, for better or for worse, to make me unable to let go," he says.

So Ganek began to talk to lawyers. They all advised him to leave it alone. "You are taking on the biggest machine you can take on," the attorneys told him, "and this machine plays dirty." And in a

business where relationships with prosecutors are part of your currency, few lawyers were willing to take on the SDNY.



A promotional banner for Kia. On the left, it says "KIA MADE FOR [CONQUERING WINTER]" with a small tree icon. In the center, it features a large "0%" with "FINANCING ON ALL 2017s" underneath. To the right of the "0%" is a red plus sign, followed by "\$1,000 ALL-WHEEL DRIVE BONUS ON SELECT MODELS". On the far right, there is a red oval with the "KIA" logo and a red button that says "SEE OFFERS >".

Then he had a phone call with Barry Scheck. Ganek was thinking about giving money to the Innocence Project. He mentioned his own case, and Scheck invited him in to talk to his team. Everyone in the meeting was skeptical at first, but as he talked Ganek could feel the mood in the room changing. Soon after, Ganek hired Scheck and sued.

What Ganek really wants to know is this: If Adondakis never implicated Ganek, then how did an affidavit stating the opposite get written, and why didn't it get fixed?

“There are a lot of times where clients feel wronged by the government,” says Nancy Gertner, a former federal judge and professor at Harvard who is working with Scheck on Ganek’s case. “But it’s rare where there is proof. This is a terribly important case with a unique set of facts.” Scheck says the SDNY had a “duty to correct” the affidavit just as it would to correct testimony in a case if advances in DNA science changed conclusions about the evidence in a case.



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Cohen and because of what he represented. “The destruction of our business went into their pocket as a different kind of capital—as political capital, as magazine covers, as lucrative jobs in the private sector,” he says. (In an irony of sorts, Zabel is now the general counsel for hedge fund powerhouse Elliott Management.) But, Ganek adds, “by putting me out of business they’ve also put me in a position where I can say things that other people think but can’t say.”

He is hardly Bharara’s only critic. Most recently, Judge Valerie Caproni chastised Bharara’s office, accusing him of orchestrating a “media blitz” around the prosecution of former New York state assembly speaker Sheldon Silver. “There is definitely a sense that Preet is a press hound,” says a former SDNY prosecutor. “And there is something to it. There’s declining patience on the bench and in the community.”

More pointedly, Ganek and his advocates accuse Bharara of hypocrisy for not practicing what he preaches by conducting an investigation into how false information might have gotten into the affidavit. “Preet Bharara talks about how corporate leaders should react to employee wrongdoing by

cleaning their houses,” says Carroll, the former SDNY prosecutor who represented Ganek. “Shouldn’t he take his own medicine and respond to this false affidavit by cleaning up his own house?” Bharara declined requests to comment for this story.

THE BAR IS HIGH for a case like Ganek’s because of the doctrine of “qualified immunity,” which protects government officials charged with violating a person’s constitutional rights—all but the “plainly incompetent or those who knowingly violate the law,” as the Supreme Court puts it. One reason the government argues that it’s entitled to qualified immunity in Ganek’s case is that it says it doesn’t matter whether Ganek had inside information on Dell or not: The affidavit didn’t specifically reference Dell, but rather referred more broadly to Ganek’s knowledge of insider trading. Ganek calls that argument “really nefarious.”

At the time of the raid, the government included only one company name in its keyword search of Level Global’s servers: Dell. But now it is arguing that prosecutors had other information—which they never have to produce and which was never sufficient to charge him. “They’re firing shots at me that only the government gets to fire,” he says.

The government also argues that because it had a cooperating witness and because Ganek did trade Dell, it would have had the ability to search his office even without the incriminating information in the affidavit. “The government got to Level Global in a very typical way,” says a source close to events.



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more than a little self-centered to believe that anyone cared enough about him to make up evidence. “You only think this story makes sense if you think that you, David Ganek, must be at the center of the storm,” says one source close to the defendants. There’s also a sense of outrage that he would accuse public servants like FBI agents and prosecutors of doing such a thing.

In the broader legal community of former prosecutors, the more common view is that an overly aggressive office, high on its own press and sense of self-righteousness, believed Ganek was guilty, got sloppy in its effort to nail him, and never owned up to it because prosecutors believed they’d eventually get him on something. But even if they believe his lawsuit won’t succeed, there is a surprising amount of sympathy among the prosecutorial community for Ganek’s basic position. “The government already has a lot of advantages and does not need to take more,” says one former SDNY prosecutor.

At any rate, Judge Pauley called the government’s arguments “unpersuasive” and did not dismiss any of the defendants from the case. The doctrine of qualified immunity allowed Bharara to appeal immediately, and the Second Circuit Court of Appeals will hear oral arguments in the coming months.

Ganek is too angry and too blunt to hide that he is seeking vengeance. But he also says the case is about more than that. “If they can do this to me, what can they do to other people who don’t have the resources to fight back?” he asks. “What I want to do is create the environment where they have the same deterrence against misconduct that they claim to be creating for Wall Street.”

And if his lawsuit accomplishes that, then win or lose, he may eventually be able to close out his position and move on.

A version of this article appears in the January 1, 2017 issue of Fortune with the headline “Payback Time.”

Correction: An earlier version of this article inaccurately stated that SAC did not plead guilty to criminal charges; SAC did in fact plead guilty to criminal insider-trading charges.

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