

At eBay, Lurid Crimes and the Search for Punishment

The victims of a bizarre cyberstalking operation are trying to hold the chief executive and the culture of the company responsible.



By David Streitfeld

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“If you are ever going to take her down .. now is the time.”

Devin Wenig, the chief executive of the e-commerce company eBay, texted those words to a deputy one summer afternoon three years ago. He was upset about a story he had just read.

Within days, the writer who was the subject of Mr. Wenig’s wrath and her husband were inundated with offensive material, including live cockroaches and spiders, a funeral wreath, a Halloween mask of a bloody pig face and a manual on surviving the death of a spouse. Crude and violent Twitter messages were posted mocking them and revealing their address. Posts on Craigslist falsely advertised they were selling their furniture or, alternatively, interested in sexual partners for bondage and sadism. They were physically stalked.

All of the intimidation and harassment directed at Ina and David Steiner was anonymous and completely confounding. They ran a niche publication about eBay and e-commerce from their suburban Boston house. It was a quiet life, with Ina writing the articles and David handling the business affairs. They had no idea why people should suddenly be so furious with them.



Ina and David Steiner spoke to reporters at a courthouse in Boston in July 2021. The couple, who run an ecommerce publication, is suing eBay over the harassment they endured. Pat Greenhouse/The Boston Globe via Getty Images

The attacks were still escalating when police traced them back to eBay. In the wake of those weeks in the summer of 2019, everyone — including prosecutors, judges, the victims, the perpetrators and eBay itself — has come to agree that a really bad thing happened at the Silicon Valley icon. The lurid episode is a vivid demonstration of how easily paranoia can bloom in an institutional setting, even at a Fortune 500 company with 13,000 employees and \$10 billion in revenue.

This is the part no one agrees about: who was responsible and how they should be punished.

If you’re a low-level employee and believe what the company tells you about extreme actions being necessary to neutralize a threat, is that an excuse? If you’re the big boss and say “take her down” are you off the hook because you didn’t get into details? If your previous career involved doing “arguably unlawful” things, should your managers be able to plead innocence when you then go out and do unlawful things? How do you punish a corporation, anyway?

These questions will be considered this fall in three Boston courtrooms. In two of them, members of the eBay security team are being sentenced for stalking, witness tampering and other crimes. A total of seven former employees have pleaded guilty. The first perpetrator to appear before the judge said he was too drunk during his brief stint at eBay to understand what was going on. It worked: He got a lighter sentence.

In the final courtroom, something more complicated and far-reaching is happening. The Steiners are suing eBay, Mr. Wenig, who is no longer chief executive, and many others, saying the campaign against them was not the activity of a rogue team but something closer to official company policy.

eBay at that time was on the defensive, under pressure from a hedge fund to perform or else. Public criticism was not something the chief executive wanted to hear. It might cost him his job. He decided to stop it.

The Steiners are unlikely free speech champions. They started their publication, EcommerceBytes, during the dot-com boom more than 20 years ago. It is both a news site for online sellers and, in the comments, a forum for the merchants to express their sometimes cranky opinions — usually about eBay but Amazon and Etsy too. The blog, with articles like “Ebay CEO Devin Wenig Earns 152 Times That of Employees” and “Ebay Says New Shipping Screen Is Here to Stay,” was widely read at the company’s San Jose, Calif., headquarters.

The Steiners are represented in their suit by Rosemary Scapicchio, a criminal defense attorney well known in Boston legal circles for her success with seemingly impossible cases. Her 17-year effort on behalf of Sean Ellis, a Black man convicted of murdering a white cop, resulted in his freedom and exposed a web of police corruption. The case is the subject of a 2020 Netflix documentary series, “Trial 4.” The Steiners watched it and sought out Ms. Scapicchio.



Rosemary Scapicchio, a lawyer based in Boston, is representing The Steiners in their lawsuit against eBay. They sought her out after learning of her success with seemingly impossible cases. Charles Krupa/Associated Press

“Ina Steiner lived across the country from eBay,” Ms. Scapicchio said. “She was never in trouble in her life. She never raised her voice to anyone. This is someone you think could somehow hurt you? And even if eBay really did think this, why didn’t the company just call the police? That’s the way you handle things. You don’t send your employees with paramilitary training to break into their garage so you can follow them around and torture them.”

The Steiners, whose ordeal was the subject of a previous Times story, declined to be interviewed on the advice of Ms. Scapicchio. eBay, in a statement recycled from the summer of 2021, when the Steiners first filed their suit, said that “the events from 2019 should never have happened” and that it was “working to do what is fair and appropriate to try to address what the Steiners went through.”

The company would not answer any questions including what “fair and appropriate” measures it had taken on behalf of the Steiners in the last year. “eBay hasn’t done anything,” their lawyer said.

Responsibility, the Steiners say, starts at the top.

Mr. Wenig, according to their suit, gave eBay security employees “carte blanche authority to terminate the reporting of the Steiners by whatever means necessary.”

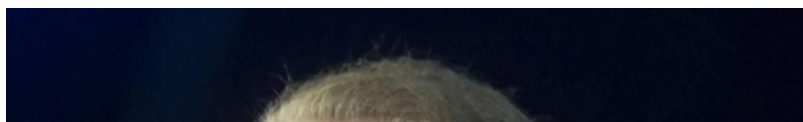
They say eBay as a corporation is guilty too. It “fostered an almost cultlike atmosphere where employees were not only expected, but required, to fulfill company directives, regardless of criminality,” they write in their complaint.

Mr. Wenig, eBay and prosecutors who declined to criminally charge the company reject this notion. eBay says it had no idea it was terrorizing anyone even if the perpetrators were operating from an office on its campus and had badges identifying themselves as eBay employees.

The phrase “take her down” is being taken out of context, Mr. Wenig, a former executive at the news agency Reuters, said in a court filing. He acknowledges writing it to Steve Wymer, the director of communications. Mr. Wymer followed up by writing a series of texts to the security chief, Jim Baugh, eBay’s top safety and security executive. Mr. Baugh oversaw the department that dealt with anything company leaders saw as a threat. A handpicked squad would soon make the Steiners’ life miserable.



Steve Wymer, eBay's director of communications. Mike Coppola/Getty Images





Devin Wenig, eBay's chief executive. Jacob Kepler/Bloomberg

Mr. Wymer's first text to Mr. Baugh repeats Mr. Wenig's text: "If we are ever going to take her down ... now is the time."

Then Mr. Wymer writes: "She is biased troll who needs to get BURNED DOWN."

And finally he says: "I'll embrace managing any bad fallout. We need to STOP her."

To the casual observer, this might sound like a formal campaign authorized from on high. And even eBay, in a presentation it made to prosecutors asking that the company itself not be charged with wrongdoing, said it "recognizes that their improper tone contributed significantly to the crimes."

Mr. Wenig, who is represented by Abbe Lowell, offered this defense in court papers: He did not write those messages to Mr. Baugh, Mr. Wymer did. Furthermore, he says that when a chief executive asks his public relations chief for a "take ... down," the "natural inference" is that he is referring to "taking lawful action," like issuing a press release, not "a series of bizarre criminal acts."

He is asking for the case against him to be dismissed. "Devin was shocked and horrified when he learned what happened to the Steiners and is no less so today," said Andrew Jarrell, a spokesman for Mr. Wenig.

The chief executive resigned several weeks after the stalking operation was disclosed to eBay by Massachusetts police. He tweeted at the time that he was not "on the same page" as the board of directors.

On the most important issue, however, Mr. Wenig and the board were apparently in full agreement: that he left "without cause," which meant he qualified for an exit package of \$40 million. General Motors, where he serves on the board of directors, describes him as "retired" from eBay.

Mr. Wymer also says his "hyperbolic statements" are being mischaracterized. When he wrote to Mr. Baugh saying "I want to see ashes," he says in a filing, he was merely referring to the couple's website. He wasn't talking about "stalking, imprisoning, defaming, vandalizing, trespassing or threatening to kill them."

Mr. Wymer was "shocked and appalled upon learning of the activities that took place," his attorney, Caz Hashemi, said in an email. He too asked for his case to be dismissed.

eBay fired Mr. Wymer "for cause" according to legal papers, but did not at the time publicly acknowledge this. The company told prosecutors that the public relations executive, who had been at eBay only a few months, was inexperienced and seeking to curry favor with Mr. Wenig. Mr. Wymer, who is currently president of the Boys & Girls Clubs of Silicon Valley, declined to be interviewed.

Andrew Lelling, the U.S. attorney for the District of Massachusetts who handled the criminal case, said there were multiple management failures at eBay. But there wasn't enough evidence to bring charges against the executives or the company itself.

“We indicted seven people, all of whom have pleaded guilty,” Mr. Lelling said. “We did what we came to do. As to Wenig and Wymer, they might have been negligent, they might even have been reckless, but we lacked the hard evidence to say they were knowledgeable and intentional participants in a criminal conspiracy.”

The Steiners say in their suit that the prosecutors relied too heavily on eBay’s own investigation to clear the company and its executives. “When eBay interviewed executives, they did not give the government the interviews, they gave them an oral report,” Ms. Scapicchio said. “How is that a real investigation?”

She is eager for the judge in the case to allow discovery to begin. “I want the stuff the government already got, and then I want the stuff they never asked for,” she said.

‘Neither body to kick, nor soul to damn’



Andrew Lelling, the U.S. attorney for the District of Massachusetts, outside federal court in Boston. He said there wasn’t enough evidence to show that the executives of eBay were “intentional participants in a criminal conspiracy.” Charles Krupa/Associated Press

In 2002, the accounting firm Arthur Andersen was convicted of obstructing justice for shredding documents in a case related to Enron, prompting the failure of the 28,000-employee company. When the U.S. Supreme Court unanimously overturned the Andersen conviction in 2005, it was seen as a warning to prosecutors.

For all the talk that “corporations are people,” they are rarely punished. Federal criminal charges against business entities have recently been averaging about 60 a year, down from 110 in 2005.

“There is this ambiguity surrounding a company,” said Daniel J.H. Greenwood, a Hofstra University law professor who studies corporate governance. “We give it some of the legal rights of an individual and often think of it as one but, in the end, it is an organization of many people. As the old legal aphorism goes, it has neither body to kick, nor soul to damn. So even if a company loses a case, the pain of the punishment is going to be passed on.”

Eighteen months ago, eBay told Mr. Lelling and his team that it was “ready to address restitution” with the Steiners, and that was one more reason to skip criminal charges against the company.

That restitution still hasn’t happened.

Last spring, eBay and the Steiners agreed to consult Paul Finn, a professional mediator who had successfully resolved hundreds of claims of sexual abuse by the Catholic Church.

On one side there was a couple who had done absolutely nothing wrong but now could not do the most basic things — go to the store, take a walk — without feeling traumatized all over again. Then there was a company that felt it was also a victim, a good corporation betrayed by bad employees.

Mr. Finn, for all his skill, could not bring the parties together. There are no ongoing negotiations, no common ground.

“We would love all corporations to step up and do the right thing without being legally compelled to do it,” said Mr. Lelling, the prosecutor. “But that is not what happens.”

Bare Knuckles

EBay, made up of buyers and sellers, was created by its community.

“If you are going to run an open marketplace, you have to believe in people,” Mr. Wenig said in 2015, the year he became chief executive. That was one of eBay’s core values: “We encourage you to treat others the way you want to be treated.”

But times have changed since 1999. The 2018 shooting at the Silicon Valley campus of YouTube by a user who felt mistreated by the video site set off shock waves all over Silicon Valley.

Believing in people gave way to hiring good people who could stop bad people. Silicon Valley historians say the companies have hired ex-military and law enforcement professionals, although the details come out only when there is a scandal or lawsuit.

Technology executives frequently feel, and sometimes are, very vulnerable, despite their power, wealth and influence. “You’re one kid in a garage away from not being that big,” Mr. Wenig told The Wall Street Journal in 2018, expressing the common Silicon Valley fear of upstart competitors.

Mr. Lelling, the prosecutor, said it was inevitable that a company’s paranoia would get the better of it, and the incident would crash into public view. “The culture inside these companies is often very aggressive and confrontational and the competition between the companies is extremely intense and bare knuckles,” he said.



The eBay headquarters in San Jose, Calif. The company outsourced jobs on its security team to a company called Progressive F.O.R.C.E. David Paul Morris/Bloomberg

Some of the security jobs were outsourced. EBay worked with a contractor called Progressive F.O.R.C.E. Concepts to help staff and run its security team. Progressive F.O.R.C.E. — the acronym stands for “Force Options for Resolving Combative Encounters” — is based in Las Vegas and has 1,124 staff in 118 locations. The company didn’t return messages for comment.

Employing an independent security outfit allowed eBay a certain amount of deniability. In a PowerPoint presentation to prosecutors that is part of the court papers, the company says one of the reasons it had no clue bad things were being done under its name was because the secret security team booked its travel to Massachusetts, where several members bought tools to break into the Steiners’ garage and install a tracking device, “off the grid” and used “non-company cash cards.”

These actions represented a real innovation for corporate crime, said Amy Burkart, a former prosecutor in the Boston U.S. attorney’s Office who worked on the case.

“We saw this use of anonymous accounts, and purchasing of burner laptops and burner phones, and using prepaid cards to purchase the deliveries — techniques that we would have seen previously only in drug trafficking organizations or other kinds of criminal activity,” Ms. Burkart said in a podcast with the law firm Jones Day.

The Steiners contend in their suit that Progressive F.O.R.C.E. paid for all of this activity and then billed eBay, suggesting that eBay knew or should have known what was going on. In its presentation to prosecutors, eBay notes that it has now closed an “expensing loophole” that it “discovered” in the case.

If, in Ms. Burkart’s words, some of the techniques the security team used borrowed from drug traffickers, others were adopted from U.S. government intelligence agencies.

In court papers, Mr. Baugh said that was the whole point of hiring him. The security chief described the work he used to do for the U.S. government as conducting physical and electronic surveillance, physical trespass, using false pretenses and fake identities and hacking computer systems. These were “arguably unlawful means” in service of a greater good, he said.

“Ebay executives were well aware of Mr. Baugh’s background,” his lawyer, William Fick, wrote, “and they expected he would use strategies and tactics that he learned in service of the U.S. government.”

Why, he asks in his filings, would he go after some random journalists on his own secret whim?

He was just doing his job, Mr. Baugh said. He has filed a countersuit against eBay saying that under California law it must pay his legal bills.

“Mr. Baugh acted at eBay’s behest,” his lawyers said. The company turned to him so he could solve the problem of the Steiners “by less conventional means.”

It’s a strange turnabout: The guy who was in charge of terrorizing the Steiners, and whom they will undoubtedly speak against at his Sept. 29 sentencing, is now backing up their claims.

Finding ‘Fidomaster’

In May 2019, about three months before the stalking operation, EcommerceBytes put up a post with the headline: “Did You Know eBay Built a Lavish NYC Pub Style Lounge?” Ms. Steiner quoted the pub contractor, who had written on his own site that it was commissioned by Mr. Wenig to replicate a NYC restaurant.

A brisk debate followed in the comments. “Is there a lavish space for weekly AA meetings too?” asked one. “Just another waste of shareholders money,” wrote another. There were defenses of eBay as well: “It’s none of your business what the heck they do with their money.”

The criticism was picked up and amplified on Twitter by a fellow who called himself Fidomaster. Ebay thought he might be in league with the Steiners, or maybe that the Steiners were Fidomaster. To frighten the couple, a security team member went to the Steiners’ home and wrote “Fidomaster” on the fence.

Ebay saw plots to undermine the company where most others would see people expressing opinions. In the texts and emails that have become public so far, there has been no suggestion by anyone at eBay that maybe it ought to back down.

Rather the opposite. They egg each other on.

“You have this groupthink problem where people get together and start brainstorming, the ideas get better and better, and what happened to the victims got worse and worse than if it had been just a single individual sitting in a basement fuming,” Seth Kosto, an assistant U.S. attorney, said in a hearing.

In August 2019 emails that were produced as part of an exhibit, eBay executives and lawyers spend a good deal of time fretting about Fidomaster.

“We should shut down the account,” Mr. Wenig writes, adding that Fidomaster’s name “keeps popping up causing all kinds of trouble.”

A lawyer responds that they “escalated” at Twitter, but the social media company is “rigid in their interpretation of the law.”

“Twitter is a sea of garbage on these things,” Mr. Wymer offers.

Mr. Baugh says he is progressing with identifying Fidomaster, but “it’s tricky and this individual knows how to hide.”

In a later message to the lawyers and the security chief, Mr. Wymer expresses frustration.

“I genuinely believe these people are acting out of malice and ANYTHING we can do to solve it should be explored,” he writes, adding: “Whatever. It. Takes.”

Paranoia takes on a life of its own.

Rationalizing the Irrational

Philip Cooke was the first member of the eBay security team to be sentenced.

“I had empathy for all the wrong people,” he told the court before his summer 2021 sentencing, meaning “my CEO, my boss, my teammates.” That obscured the truth: “A group of people got together and immorally and illegally rationalized and justified horrific behavior in order to please the boss.”



A placard displays photographs of evidence, a bloody pig mask, left, and a book titled 'Surviving the Loss of a Spouse,' as United States District Attorney for Massachusetts Andrew E. Lelling announced charges of conspiracy to commit cyberstalking and witness tampering against six former eBay Inc., executives, at the John J. Moakley Federal Courthouse in Boston, Mass., in 2020. Cj Gunther/EPA, via Shutterstock

He was a decorated police captain who retired in his early 50s. But he was bored, he said in legal filings, and that encouraged drinking. He went back to work, joining Progressive F.O.R.C.E. as an assistant team leader providing armed emergency response at high tech campuses. He spent time at Facebook, where he drank, and then eBay, where he drank more. At both companies, there was a “drinking culture” that encouraged Mr. Cooke’s behavior, his wife, Deborah Rothschild, told the court.

After a year with Progressive F.O.R.C.E., Mr. Cook began working for eBay directly in early 2019, as a senior manager of security operations for \$185,000 a year.

He was on the fringes of the operation, he said, telling the court he regularly deleted emails from Mr. Baugh because he believed his boss was “messaging with him.” As the full-fledged harassment of the Steiners began, Mr. Cooke went to work for eBay in India, where his lawyers said he was “alone and inebriated.”

Mr. Cooke was not fired in September 2019, when his six colleagues were. Instead, he was promoted and given a raise. In July 2020, he was charged with cyberstalking the Steiners, who say eBay’s failure to fire him earlier is more evidence that the company did a bad job probing itself.

“This case is about the culture of a company that promotes and rewards employees that break the law,” Mr. Steiner said in court papers.

In the end, the judge split the difference between what Mr. Cooke wanted and what the government asked, giving him 18 months in prison. He told the court that he was now sober. Through his lawyer, he declined to be interviewed.

‘Doing something we loved’

The Steiners piled up baking pans against the back door to make a clatter if there were a break-in. They slept in separate bedrooms so that if one of them was attacked in the middle of night the other might make it to safety.

If they were killed, Ms. Steiner told her husband at the height of the stalking, at least they would have the consolation they were “doing something we loved and believed in.”

They still do it. It must be difficult to cover a company that is their livelihood, which has victimized them and which they are suing. Maybe some day the Steiners will talk about this, but for now, through their lawyer, they declined.

The site these days would never inflame even the most high-strung eBay executive. It was a weak second quarter for eBay, but EcommerceBytes basically reprinted the company’s news release. A post about a cranky seller defacing a page on eBay’s Australian affiliate with the message “eBay is evil” was devoid of commentary. A news item from June 2021 announcing Mr. Wenig’s appointment to an advisory board at Salesforce did not even mention the scandal.

If “take her down” meant “neutralize a critic,” the stalking operation could be deemed a success.

Even the anonymous comments underneath the stories — once the subject of overwhelming concern to eBay management — seem muted. There were just five comments on that post about Mr. Wenig, although two of them did say he belonged in prison.