

## The Romney 'Fact-Checking' Scandal

By [Robert Parry](#)

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*Mitt Romney cites "independent fact-checkers" to spare him from having to explain exactly what he did with Bain Capital after February 1999. But those "fact-checkers" are acting less like impartial journalists and more like argumentative lawyers covering Romney's political flanks, writes Robert Parry.*

Self-styled "independent fact-checkers" at the Annenberg Center and the neoconservative-dominated Washington Post have positioned themselves as ardent defenders of Mitt Romney's claims that his Bain Capital tenure ended in 1999 despite questions raised by contradictory information submitted by Romney himself.

Indeed, the behavior of these "fact-checkers" is rapidly becoming the journalism scandal of Campaign 2012 as the likes of Brooks Jackson at Annenberg's FactCheck.org and the Post's Glenn Kessler act more as querulous lawyers protecting Romney than as journalists seeking the actual facts surrounding Romney's curious business narrative.



Republican presidential candidate Mitt Romney speaking to voters. (Photo credit: mittromney.com)

Much as the Post's Ceci Connolly and the New York Times' Katharine Seeyle engaged in aggressive - and dishonest - journalism to portray Vice President Al Gore as a serial liar during Campaign 2000, Jackson and Kessler are performing a similar role in portraying President Barack Obama and his campaign officials as liars now. [For the history, see Consortiumnews.com's "[Al Gore v. the Media](#)" or [Neck Deep](#).]

Yet, despite the pro-Romney protectiveness from Jackson and Kessler, the questions raised by the Obama campaign and a number of journalists about Romney's dubious claims are clearly legitimate. These questions about whether Romney completely divorced himself from his venture capital firm when he rushed off in February 1999 to head the Winter Olympics stem, in large part, from public disclosures that Bain Capital filed with the

Securities and Exchange Commission.

For instance, one summary of Bain investments via Bain Capital Fund VI, dated Feb. 13, 2001, lists Romney as “the sole shareholder, sole director, Chief Executive Officer and President of Bain Capital and thus is the controlling person of Bain Capital.”

Yet, in [his presidential campaign disclosure form](#) in 2011, Romney declared that he “has not been involved in the operations of any Bain Capital entity in any way” after leaving Boston for Salt Lake City, Utah, and the Olympics job on Feb. 11, 1999. Jackson and Kessler treat Romney’s bald assertion as fact despite the conflicting evidence.

There are also logical questions that any journalist worth his or her salt would ask: “Mr. Romney, does your claim mean you had no contact with your former Bain associates by telephone, e-mail or in person in that time frame? Did you really build a Chinese Wall between yourself and your company?”

Common sense would tell you that Romney did have conversations with his long-time subordinates. There was no legal reason not to, and he was involved enough to sign some of the SEC forms listing him as the person in charge. (Only later, after it became clear that Bain-related plant closings and job outsourcing after February 1999 were a political liability, did Romney start insisting that his separation had been total.)

If Romney now confirms that he had some contacts with Bain executives, the next questions would be when, what, why and with whom. Are there e-mail messages or memos that could be examined? So, instead of offering those kinds of details, he cites the work of these “independent fact-checkers” to shield him from the inquiries.

## TV Excuses

It was a startling aspect of Romney’s brief round-robin interviews with five TV networks on Friday that he was allowed to skate away with squirrely responses to these questions.

For instance, in the NBC interview, correspondent Peter Alexander asked, “after February 1999 you never attended a single meeting for Bain, a business meeting, even by phone, attending a meeting regarding Bain or Bain-controlled entities?”

Calm and collected with a patronizing smile on his face, Romney responded: “You’ve got quite a few questions there, so let’s go through them. I didn’t involve myself in any way with Bain Capital’s enterprise after February 1999.”

Alexander followed up: “Not participating in a single meeting either in person or by phone?”

Romney answered: “I can’t recall a single meeting or a single participation in an investment decision by Bain or personnel decision.”

Even if Romney’s answer could be technically true – and it contradicts what Romney told the Boston Herald when he headed off to Utah with his stated intent to “stay on as a part-timer with Bain, providing input on investment and key personnel decisions” – there are many other business-related topics not covered by Romney’s narrow denial.

Romney also is hair-splitting when he references Bain “entities” in his federal campaign disclosure. While the average reader might think Bain’s investments would fall under this

“entities” rubric, Romney apparently is excluding his board membership on behalf of Bain at companies in which Bain held major interests, such as Staples and LikeLife.

On that point, Annenberg’s FactCheck.org bends over backwards into a protective crouch for Romney, saying, “We think the term ‘Bain Capital entity’ on Romney’s disclosure forms could only refer to Bain’s various investment funds, not to companies in which it invested.” Gee, how understanding of you!

#### Missing Hours

These “independent fact-checkers” also show little curiosity about discrepancies over how much time Romney was allegedly working during this time period.

FactCheck.org accepted self-serving accounts about Romney working 16-hour days, seven days a week, after he arrived in Salt Lake City. But Kessler instead cites Romney’s statement to a Massachusetts election board that – as head of the Winter Olympics – he “worked, on average, over 12 hours per day, 6 days per week.” One might wonder where the missing 40 or so hours went.

But the two “fact-checking” teams appear more interested in shutting off lines of inquiry about Romney’s work at Bain Capital than in getting to the bottom of the many mysteries. Kessler even takes the position that it’s no big deal to file false SEC forms.

“There is a journalistic convention that appears to place great weight on ‘SEC documents,’” Kessler [wrote](#). “But these are public filings by companies, which usually means there are not great secrets hidden in them. The Fact Checker [i.e. Kessler], in an earlier life covering Wall Street, spent many hours looking for jewels in SEC filings.”

Though it’s hard to judge how inept Kessler was in examining SEC documents, I spent four years editing securities-regulation coverage for Bloomberg News and some of our reporters were quite adept at mining the filings for nuggets. It’s also an area where companies must tell the truth, with minimum spin, or face serious consequences.

Many corporate executives, at places like Enron and WorldCom, went to jail, in part, for filing false or misleading disclosure documents. It is indeed a potential felony to knowingly sign and submit SEC records with materially false information, such as telling potential investors that a person is in charge when the person is not in charge.

One of the “great secrets” hidden in SEC filings should not be that the guy listed as CEO isn’t really the CEO.

Whether a criminal case can be built upon Bain Capital’s admittedly false filings may be open to question – given statutes of limitations and other issues – but it’s hard to understand how “fact-checkers” would take such a forgiving view of a politician signing false and misleading documents.

What does it say about Mitt Romney that he would repeatedly sign legal documents that contained information that he knew to be untrue – and why would “fact-checkers” defend him for doing so.

But FactCheck.org’s Jackson and the Post’s Kessler treat these transgressions with a “boys

will be boys” casualness, almost as if one is supposed to rally to the defense of well-bred white men who run powerful private-equity firms and have lots of money.

Kessler wrote that he “concluded that much of the language saying Romney was ‘sole stockholder, chairman of the board, chief executive officer, and president’ was boilerplate that did not reveal whether he was actually managing Bain at the time.” Yet, whether “boilerplate” or not, the filings were false and/or misleading.

Kessler even adds that “there is no standard definition of a ‘chief executive,’ securities law experts say, and there is no requirement for anyone to have any responsibilities even if they have that title.” Oh, really? Here’s how [Investopedia](#) (a reference source that Kessler has cited in the past) defines a “chief executive officer”:

“The highest ranking executive in a company whose main responsibilities include developing and implementing high-level strategies, making major corporate decisions, managing the overall operations and resources of a company, and acting as the main point of communication between the board of directors and the corporate operations. The CEO will often have a position on the board, and in some cases is even the chair.”

To claim repeatedly over a period of more than two years that someone was the CEO – and thus the “controlling” person – if that were not true represents what many securities regulators would call a “material” deception.

Though Bain did file some documents without reference to Romney, as Kessler notes, that does not and should not absolve the firm or Romney from responsibility for filing others with what they now say is false information.

#### A Different Tone

While devising endless excuses for Romney and his Harvard Business School buddies, these same “independent fact-checkers” heap scorn on the African-American president and his campaign for daring to raise these impertinent questions about the much-admired Romney.

Annenberg’s FactCheck.org mocked a six-page [letter](#) from Obama’s campaign with the flippant [response](#), “your complaint is all wet.” In giving Obama “three Pinocchios” for pointing out the discrepancies in Romney’s Bain story, Kessler said he spared Obama a fourth Pinocchio (a total “whopper”) with the grudging admission that “there is grey area” regarding Romney’s last few years at Bain Capital.

In a larger sense, however, this issue of exactly when Romney left Bain is a ruse, a diversionary line of defense that Romney has been building since he ran for Massachusetts governor in 2002. The reason for this ever-expanding moat is that it lets Romney deny responsibility for Bain-related plant closings and off-shoring of jobs that occurred from 1999 to 2002.

But the key question is not when Romney left but who set in motion the strategies that led to the plant closings and the job off-shoring. It was Romney who pulled the trigger on investments in companies whose business model involved facilitating these actions for other companies.

For instance, as Washington Post investigative reporter Tom Hamburger explained in [a front-page story](#) on June 21, Romney’s venture capital firm “owned companies that were

pioneers in the practice of shipping work from the United States to overseas call centers and factories making computer components.”

In other words, Bain Capital wasn't just investing in companies that shipped jobs overseas themselves, Bain owned companies that were trailblazing the practice of outsourcing American jobs to low-wage companies like China and India. The story said:

“A Washington Post examination of securities filings shows the extent of Bain's investment in firms that specialized in helping other companies move or expand operations overseas. ...

“Bain played several roles in helping these outsourcing companies, such as investing venture capital so they could grow and providing management and strategic business advice as they navigated this rapidly developing field.”

#### A Lucrative Foray

As Hamburger reported, “Bain's foray into outsourcing began in 1993 when the private equity firm took a stake in Corporate Software Inc., or CSI, after helping to finance a \$93 million buyout of the firm. CSI, which catered to technology companies like Microsoft, provided a range of services including outsourcing of customer support. Initially, CSI employed U.S. workers to provide these services but by the mid-1990s was setting up call centers outside the country.

“Two years after Bain invested in the firm, CSI merged with another enterprise to form a new company called Stream International Inc. Stream immediately became active in the growing field of overseas calls centers. Bain was initially a minority shareholder in Stream and was active in running the company, providing ‘general executive and management services,’ according to SEC filings. ...

“The corporate merger that created Stream also gave birth to another, related business known as Modus Media Inc., which specialized in helping companies outsource their manufacturing. ... Modus Media grew rapidly. In December 1997, it announced it had contracted with Microsoft to produce software and training products at a center in Australia. Modus Media said it was already serving Microsoft from Asian locations in Singapore, South Korea, Japan and Taiwan and in Europe and the United States.”

All those events occurred while Romney acknowledges that he was the hands-on CEO at Bain Capital. Hamburger also describes continuation and expansion of these outsourcing activities after February 1999. But those activities were simply an extension of what Romney had started.

To pretend that there was some bright line between the “good” Bain Capital before February 1999 and the “bad” Bain Capital afterwards is downright silly. It is even sillier for “independent fact-checkers” to suggest that Romney had no responsibility for what his own company did.

If these supposed “fact-checkers” really cared about facts, perhaps they would use their new status as Romney's favorite defenders to ask the Republican presidential candidate to release Bain Capital's internal records that would show whether he did or did not have any contacts with his subordinates after February 1999.

The “fact-checkers” might also press him to release his tax returns. So far, all they have

done is throw brickbats at others who have tried to raise questions regarding the vetting of a man who wants to be President of the United States but doesn't want to tell the American people much about how he earned his money or even where it is.

*To read more of Robert Parry's writings, you can now order his last two books, [Secrecy & Privilege](#) and [Neck Deep](#), at the discount price of only \$16 for both. For details on the special offer, [click here](#).*

*Robert Parry broke many of the Iran-Contra stories in the 1980s for the Associated Press and Newsweek. His latest book, [Neck Deep: The Disastrous Presidency of George W. Bush](#), was written with two of his sons, Sam and Nat, and can be ordered at [neckdeepbook.com](#). His two previous books, [Secrecy & Privilege: The Rise of the Bush Dynasty from Watergate to Iraq](#) and [Lost History: Contras, Cocaine, the Press & 'Project Truth'](#) are also available there.*

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