

Tilting at Mills

Green Dreams,
Dirty Dealings,
and the
Corporate Squeeze

Lis Harris



Houghton Mifflin

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To Martin

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1

Rules of the Game

ON A CHILLY LATE DECEMBER day in 1992, Allen Hershkowitz, a senior scientist for the Natural Resources Defense Council, one of the country's preeminent environmental advocacy and legal action groups, left his office in lower Manhattan at around six-thirty in the evening, drove up to the Mott Haven section of the South Bronx, and inched his green Subaru uncertainly along Prospect Avenue near 161st Street. He had an eight o'clock appointment with a community development group named Banana Kelly and, though he arrived early, it was already dark, the street badly lit, and he was having a hard time locating its storefront headquarters. Hershkowitz had grown up in New York, but in Brooklyn, and didn't know the Bronx that well. He had been invited to speak to Banana Kelly's board of directors by the organization's chair and executive director, Yolanda Rivera, about his idea of their joining forces with NRDC and a paper company to build a paper mill in the South Bronx, an ambitious, innovative project that he had been thinking about for nearly a year. It was an idea that some called visionary, others crazy.

An intense, tousle-haired man in his late thirties with thick, black, upward-tending eyebrows that gave him a permanently quizical look, Hershkowitz drove past the address he had been given several times, but the shutters were down, so he thought he was at the wrong place. Looking for help, he drew alongside a parked car, where he saw someone sitting in the front seat, but, as he would tell one of his colleagues the next day, "when I pulled up to the car to

ask where Banana Kelly was, so help me god, the guy in the driver's seat was shooting up. Now I'm not a naive guy," he went on, "and growing up in East Flatbush you're not exactly sheltered, but that was the first time in my life I ever saw anyone shooting up. He was certainly the wrong guy to ask for directions. So I parked the car and walked up to a door that I thought was the right one, but there was no bell. I knocked but nobody answered, so I stood there for maybe an hour in my suit and tie with my briefcase and, quite frankly, I'm the only white guy around." For a while he watched some young children playing in the street, vainly looking for the adult he wished were looking after them. "Finally," as he told it, "Yolanda comes out and sees the scene, and she's being very solicitous, but she's also laughing—because, of course, the board has been sitting there all that time waiting for me."

A long and complicated path had brought him to Banana Kelly's doorstep. Over the past fifteen years, Hershkowitz, who has a Ph.D. in political economics from the City University of New York, where he had specialized in electric utilities technology and the environment, had become one of the country's leading experts on recycling—especially on waste management, municipal waste, medical waste, and sludge. He had trodden the well-established path of environmental advocacy and, in courtrooms and legislative committee rooms in Washington and across the country, his was a familiar face. He had served as an adviser for the Organization of American States, the World Bank, and numerous municipalities, legislative bodies, environmental organizations, and businesses. His publications included three technical books with titles only an enviro wonk could love (*Garbage: Practices, Problems and Remedies*, *Garbage Management in Japan*, and *Garbage Burning: Lessons from Europe*), and articles he'd written had appeared in the *New York Times*, the *Atlantic Monthly*, *Newsday*, *City Limits*, and the *Nation*, among other publications.

Hershkowitz was overjoyed when NRDC, an organization founded in 1970 by progressive young Yale lawyers and well-connected New Yorkers and that had a hand in shaping nearly every major environmental law, tapped him in 1989 for a full-time job and made him director of their National Solid Waste Project. He

believed when he took the job that he would be satisfied spending the rest of his life lobbying for good environmental laws in Congress and helping to prevent bad ones from doing further damage. Over the years, however, his experience as an advocate caused him to question what he perceived as some inherent limitations in the work he was doing.

In 1982, he married Margaret Carey, a tall, spirited, fellow graduate student (she worked in energy conservation), and between 1987 and 1990 they had three children, two boys and a girl. When he watched his children playing or asleep in their beds, questions about the healthfulness of the world they were growing up in—questions to which he had all too many discouraging answers—surfaced often in his mind. And the more he thought about it, the more frustrated he felt about how tough it was for him and for his colleagues to get crucial environmental protections past their deep-pocketed industrial opponents.

Throughout the late 1980s and the beginning of the 1990s, NRDC, in a coalition with cities, counties, states, and other environmental groups, tried to get a National Recycling Act passed that would push industries both to take more environmental responsibility for their products and stimulate the market for recycled material. Hershkowitz had joined NRDC, in fact, to lead the effort to draft that statute. The struggle to get the bill passed occupied four years of his life, and he often had to spend long patches of time in Washington, D.C., marooning Meg and the kids in the rather isolated upstate New York house where they then lived.

The federally mandated closing of open landfills and dumps throughout the country during the 1980s raised waste disposal costs so alarmingly that some municipalities suddenly found themselves budgeting more for garbage disposal than they were for schools or police or fire departments. Not knowing what else to do, many of them began building incinerators as an alternative to the dumps, but once it became known that hazardous air emissions were being spewed from the incinerators, huge, politically divisive community battles erupted about where to site them. In 1987, the well-publicized plight of New York City's garbage-laden barge, *Mobro*, which floated around the southern coast of the United States and Central

America for months (its load finally ended up being incinerated in Brooklyn, then buried in the Islip, Long Island, municipal landfill), briefly brought the larger issue of the country's garbage problems to the forefront of public environmental consciousness.

For an equally fleeting moment, so did a growing awareness of medical waste washing up on beaches, along with dioxin-releasing hospital incinerators, and there was a flurry of public debate about toxic materials in consumer products and battles about interstate garbage and toxic waste transport. The need to get a grip on these issues had become important enough for the twentieth anniversary of Earth Day on April 22, 1990, to be dedicated largely to promoting recycling, by then the most widely supported environmental activity in the country. More and more, members of Congress were hearing from their constituents about these problems and were increasingly troubled by the political battles they engendered. (At one meeting he attended that year, when everyone in the room was asked what they did, a representative of the plastics industry pointed to Hershkowitz and said, "My job is to follow him around and respond to him.") The times seemed not only right but propitious for the passage of a progressive National Recycling Act, or so a great many people outside Congress thought.

On June 6, 1992, the culminating moment of NRDC's four-year campaign on behalf of the statute, Hershkowitz, who by then was considered the chief researcher for people seeking recycling information, mounted the granite steps of the Rayburn office building at seven-thirty A.M. and headed toward a House Commerce Committee room for the Recycling Act mark-up (a meeting to which all the members of a congressional committee are called to deliberate on a bill and have an opportunity to amend it before it is voted on and, if approved, sent on to the full House for a vote). The vote was scheduled to begin at ten o'clock. Outside the committee room a House security guard handed him a slip stamped with the number 189, and told him to get in line.

Industry lobbyists routinely pay a per-hour fee to placeholders to arrive at six A.M. and secure a good spot in line for them when they want to be sure to get in to congressional meetings. About ten minutes before the committee room doors are thrown open, the

lobbyists show up and claim their spots. Other lobbyists circumvent the process entirely by being escorted into the room by congressmen they have good relationships with—relationships frequently cemented with handsome financial contributions. By nine-thirty that morning there were already about 450 people in the Rayburn Building corridor, waiting in line to get in to the committee room. Only six of those in line represented environmental groups (according to one legislative aide, Coca-Cola alone had forty lobbyists focusing on the bill to make sure it contained no provision mandating bottle deposits or recycled container content).

Knowing that there were only about 150 seats in the House Commerce Committee room, Hershkowitz walked quickly over to the office of Representative Al Swift, a Democrat from Washington State, the chairman of the committee. Swift had worked closely with Hershkowitz on the bill and had also gone along on one of two fact-finding trips—to Europe and to Japan—that NRDC had sponsored. The purpose of the trips had been to observe sophisticated recycling technologies in countries more advanced in waste management than the United States. Swift had gone on the European tour. Hershkowitz found Swift, cigar in hand, just as he was about to leave for the committee room, and asked him if he would walk him in through a back door so he could secure a seat. Swift was happy to accommodate him.

When they got to the room a few minutes before the doors opened, it was already half filled with industry lobbyists, who, like Hershkowitz, had been walked in by their own congressional allies. Only two other enviros managed to squeeze into the room after the doors were officially opened. As the day went on, the reason for the heavy industry presence became clear: many retrograde industry-sponsored amendments were to be jimmed into the bill. The plastics industry managed to get their waste incineration defined as recycling; there was a provision couched in language that made it seem as if the well-being of the nation depended on allowing the federal government to override local zoning ordinances forbidding the siting of incinerators; and the paper industry had succeeded in getting amendments into the bill that allowed virgin timber byproducts to be labeled as waste recycling. At day's end,

but before the legislation was voted on, the enviros felt compelled to kill the bill they'd worked flat out on for so long. Threatening to release them to the national media, they issued to committee members and their staff press releases that attacked the legislators for drafting what had now essentially become an antirecycling bill, one that would, if passed, set the progress already made in recycling back twenty years.

In response to the press releases and the fear of committee members that they would be pilloried by their constituents for being antirecycling, the bill was never even reported out of mark-up and never voted on. By two o'clock in the afternoon, it was dead. The industry lobbyists were ecstatic. No directives about recycling municipal waste would become federal law. And none has been issued since then with the exception of Presidential Order 12873, signed by President Clinton in 1993—despite a pitched battle mounted in Congress by the paper industry trying to prevent it—requiring all federal agencies, including the Department of Defense, to buy recycled paper.

It was in January 1992, six months before the National Recycling Act was killed and when hope for its passage was still high, that Hershkowitz had led the fact-finding mission for members of the House and Senate to Europe and spoken with environmental regulators and people who ran profitable, environmentally sound, large-scale industries.

In Belgium, the group discussed with European Union ministers tentative plans to adopt Germany's broad-ranging recycling ordinances (Germany was recycling three times as much as the United States) throughout the EU—plans that were subsequently adopted. With the EU's population of roughly 320 million collaboratively attempting to change long entrenched habits, the standard U.S. industry argument against adopting more progressive standards—that what worked in tiny European countries could never work in a country with as large a population as the United States—fell to shambles. But for Hershkowitz, the most revelatory moment of the trip came when the group visited a paper mill located in a small town near Stuttgart. The mill drew on recycled

office paper to make pulp and used neither chlorine bleach nor any other pollutant that would have made its presence a burden on the town, and it employed local people to run it.

Wherever they went, the CEOs, government officials, and regulators they met were unanimous in their view—anathema to most U.S. industries—that those who made a product had a direct responsibility for its disposal in such a way that it could be reused or recycled.

During the German leg of the trip, after looking at the mill near Stuttgart, Hershkowitz began to think seriously about the possibility of initiating a large-scale project in New York—perhaps even a paper mill—based on the European model. He had seen with his own eyes efficient urban recycling programs that were meeting the ever-growing demand for recycled pulp, and new technologies were also supposedly coming along that used low-grade wastepaper to produce a higher grade of finished product. This was an exciting discovery for him, because the pulp and paper industry, which had relied on wood since the 1850s, was the third biggest industrial greenhouse gas emitter (after the chemical and steel industries) in the world and probably contributed more to global and local environmental problems than any other industry. In the United States, it was also one of the most heavily subsidized industries; there were more than 369,000 miles of subsidized roads in the nation's forests, two times the mileage of the nation's interstate highway system. And even though the world is fast running out of fresh water and the demand for it is expected to be greater than the supply by the end of the first quarter of this century, the paper industry's need for it keeps growing. Paper companies are the largest industrial users of water in the world.

NRDC had sued a number of paper companies and at that time had a lawsuit pending against the EPA in an effort to make it enforce the Clean Water Act's directives regarding the permissible level of dioxin, a toxic byproduct of the chlorine bleach most of the companies used in their pulp plants, directives which the paper companies routinely disregarded. (Eventually NRDC won the suit, but got only a watered-down version of what they and other environmental groups were asking for. As of this writing, the paper