

1

The Bank for the Innovation Economy

Banks know that customers hate them. That is the headline from a CNN Business report from a survey of banking executives.¹ The financial crisis of 2008 engraved stains on banks that more than 80 percent of managers at banks, brokerages, and other financial services firms believe continue to have a negative impact on their companies. JPMorgan Chase, Bank of America, and Citigroup saw their biggest fall in reputation. Their names stayed in the headlines for settlements with the regulators reaching billions. Regulators imposed hefty fines against banks in 2021: Capital One, \$390 million; Deutsche Bank, \$130 million; Julius Baer, \$79 million; Apple Bank for Savings, \$12.5 million.² The total fines against big banks in the United States in 2020 escalated to more than \$11 billion, including the largest single fine issued against Goldman Sachs (\$3.9 billion) and the second largest against Wells Fargo (\$3 billion).³

In recent years, shareholders have voiced their opposition to executive pay and voted to reject pay plans at the world's biggest banks.⁴ The excessively large bonuses, lawsuits, and big fines tied to bad practices fuel the public resentment toward banks.

¹ Paul R. La Monica, "Banks Know That Customers Hate Them," *CNNBusiness*, June 17, 2014, available at: <https://money.cnn.com/2014/06/17/investing/banks-crisis-reputation> [<https://perma.cc/RMH3-NRZK>] (last accessed September 18, 2023).

² Ian Henderson, "Lessons from the Seven Largest AML Bank Fines in 2021," *Forbes*, March 24, 2022, available at: www.forbes.com/sites/forbestechcouncil/2022/03/24/lessons-from-the-seven-largest-aml-bank-fines-in-2021/?sh=374fccd88ced [<https://perma.cc/2W9L-45E4>] (last accessed September 18, 2023).

³ "Banks Worldwide Amass \$15B in Fines in 2020, U.S. Banks Account for 73%," *Corporate Compliance Insights (CCI)*, January 11, 2021, available at: www.corporatecomplianceinsights.com/banks-15b-in-fines-in-2020/ [<https://perma.cc/HF7A-ECZ8>] (last accessed September 18, 2023).

⁴ Steve Slater, "Shareholder Anger Simmers Worldwide over Bankers' Pay," *Reuters*, May 29, 2014, available at: www.reuters.com/article/banks-salary-shareholders-agm/shareholder-anger-simmers-world-wide-over-bankers-pay-idINL6NoO74Tl20140529 [<https://perma.cc/MSS5-REKG>] (last accessed September 18, 2023).

Banks have a reputation score of 342, compared to retail at 515 and automotive at 570.⁵ Wells Fargo ranked the worst on both the 2019 and 2020 Harris Poll Reputation Quotient Rankings.

One site named Wells Fargo, TD, Commerce Bank, Bank of America, Fifth Third, Citibank, and Capital One amongst the banks receiving the most common customer complaints.⁶ Another site surveyed and listed the most hated banks in every US state.⁷ According to this site, Wells Fargo is most despised in Alaska, Colorado, Idaho, Montana, Nevada, New Mexico, North Carolina, South Carolina, and Virginia. Bank of America is the most loathed in nine states: California, Connecticut, Florida, Kansas, Maryland, Massachusetts, Oklahoma, Texas, and Washington. Chase Bank is the most detested in five states: Arizona, Illinois, Indiana, Louisiana, and New York. Credit One Bank is the most reviled in five different states: Hawaii, Maine, Michigan, North Dakota, and Wyoming. At all times and in all places, the public are ready to name a bank that they dislike. It rests true that customers abhor banks and banks are fully aware of it.

The idea of writing a good story about a bank invites ridicule; yet it seems right. This is because the story is about an independent, community bank that nurtured many startups in the tech community during its path of survival and growth to become the bank for the innovation economy.

The grey building, a modest two levels in height with a prominent ocean blue chevron, right arrow logo perched above the entrance door signaled you were approaching another value, a relative forward direction, a morphism in category theory, a material implication in logic, a pathway of a chemical reaction in a chemical equation, and a notation of Conway chained arrows for very large integers. The logo could very well be a bird with spread wings on its flight path, a boomerang moving toward its destination, or a road sign showing a dangerous curve in the road to keep drivers safe. Pick any of those meanings that the logo teases in your knowledge and subconscious, and you arrive at the unassuming headquarters of the former Silicon Valley Bank (SVB), also known as the Bank for the innovation economy before its sudden demise on March 10, 2023.

The Bank boasted 50 percent of all venture capital-backed tech and science companies in the United States as its clients. The Bank cultivated tech enterprises at all stages, from startups to mid-growth, late-growth, and initial public offering phases.

⁵ Tom Groenfeldt, “Banks Have Got a Reputation, but They Can Improve It,” *Forbes*, June 14, 2019, available at: www.forbes.com/sites/tomgroenfeldt/2019/06/14/banks-have-got-a-reputation-but-they-can-improve-it/?sh=70688388247d [<https://perma.cc/8KVN-UKBE>] (last accessed September 18, 2023).

⁶ Katherine Muniz, “10 Most Common Bank Customer Complaints,” *MyBankTracker*, June 28, 2022, available at: www.mybanktracker.com/news/customer-banking-complaints [<https://perma.cc/C6WQ-XSG7>] (last accessed September 18, 2023).

⁷ “These Are the Most Hated Banks in Every U.S. State,” *Fairshake*, available at: <https://fairshake.com/consumer-guides/most-hated-banks-us/> [<https://perma.cc/BE25-QEYB>] (last accessed September 1, 2022).

Of all the US venture capital-backed companies that went public by the end of December 31, 2022, the Bank claimed about 55 percent of them as its clients. In tech lending, SVB carefully evaluated and executed loans to fast-growth enterprises of the innovation economy. Without growth, companies will soon wither and die, and the Bank held key factors to make its assessment of a company's financial health in determining a credit line or loan amount. The Bank dedicated 2 percent of its loan portfolio to fledgling enterprises; startups with less than \$5 million in revenue. The remaining 98 percent of the loan portfolio were concentrated on venture capital (VC)-backed tech companies at different growth phases and with revenues above \$5 million.

Airbnb, Fitbit, Pinterest, and Uber are some of the tens of thousands of tech companies the Bank courted as startup clients. Known as a part lender, part consultant, part cheerleader, and part investor, the Bank helped sustain tech companies in the early stage when their ideas for disruption and world domination were far-fetched. Airbnb founders used technology to persuade strangers to sleep in one another's homes worldwide in arrangements where the host can make extra income while the overnight guests pay less than they would have at a conventional lodging establishment. Maximizing use of the extra room in a house, an apartment, or a residence became a \$31 billion company when Airbnb launched its initial public offering (IPO). James Park, the CEO of Fitbit, was inspired in 2006 by his Nintendo Wii, purchased at Best Buy, because the combination of hardware, sensors, and software brought a holistic experience that transforms gaming into an active, fun, and positive activity. A few months later he started Fitbit, leveraging wireless-enabled wearable technology to motivate people to get off their chairs and couches, take steps and get moving, stay active, and become healthier by furnishing them key data, guidance, and inspiration. Fitness enthusiasts adore Fitbit wearable products, and the company has morphed into an American digital health and fitness brand. Before the age of Pinterest, people clipped and pinned their favorite images in scrapbooks and on boards. On Thanksgiving Day in 2009 Ben Silbermann conceived the idea of a site where people post, repost, and share their recipes and beautiful décor images. His now-wife named it "Pinterest." Through word of mouth, eleven million new people visited the site in its first seven months. Pinterest joined the lexicon meaning for sharing photos, just as Twitter had for sharing messages and Facebook for finding friends. Young entrepreneur Travis Kalanick met Greg Becker, CEO of Silicon Valley Bank, with a global plan to connect passengers with ordinary drivers who use their own vehicles without taxi medallions to hire out for ride sharing. Strangers get into other strangers' cars, blissfully disregarding warnings from parents of prior generations that you should never get a ride from a stranger. The world then opened up to the idea of ride sharing as Uber, and riders have no problem with climbing into strangers' cars.

By banking and lending to startup clients for the last forty years, the Bank rose from obscurity to one of the top fifteen largest banks in 2022. From its humble origin as a community, independent bank with one location in the isolated industrial area of northern San Jose in 1983, the Bank amassed assets totaling \$208.58 billion. This

large sum propelled the Bank forward eight spots from number 22 to 14, joining the group of the largest fifteen banks in the United States during the COVID-19 pandemic. Forbes listed SVB in its prestigious “America’s Best Banks 2022.” SVB was also on the “List of 100 Best Companies to Work For.” Shareholders enjoyed seeing the Bank’s net interest income on a fully taxable equivalent basis and noninterest income for 2021, which reached \$3.2 billion and \$2.7 billion, respectively.⁸ At the end of Q1 2022, SVB’s assets of \$220 billion placed the Bank as the thirteenth largest bank in the United States. These national rankings were astounding because SVB was the only bank in the country, and perhaps the world, with 100% of its business devoted to serving the tech sectors.

Back in 2002, 1,019 full-time employees were working at the Bank’s twenty-seven regional offices in innovation centers across the United States. The number of total full-time employees reached 8,000 in 2023. The latest number is even more significant when contrasting it to the original thirteen people crammed into an office in northern San Jose when the Bank first opened its doors in October 1983 with \$5 million from 100 investors. The early employees, led by a fearless leader with the mindset of a startup stalwart, all shared a conviction of devoting a third of their business to serving the burgeoning new tech sectors in Silicon Valley.

In the forty years of its existence, witnessing and weathering the 1990s real estate crisis, the 2000s internet bubble, the 2008 Great Recession, and the COVID-19 pandemic in 2020–2022, the Bank faced challenges head-on and transformed itself along the way. Among these challenges, the Bank had to navigate operating in the tech community marred with scandals of sexual harassment and discrimination. But the Bank failed to withstand the herd mentality unleashed by the tech bro culture and social media risks of 2023. The Bank died within the tech sector it operated. But let’s not get ahead of ourselves about the Bank’s demise. We should first look at the tech culture it once lived within.⁹

The tech culture is rooted in welcoming new ideas, breaking down barriers, and encouraging creative collaboration. However, the same tech culture also enables sexual harassment and misconduct.¹⁰ At the annual Foo Camp, an “unconference” annual tech event, attendees “bounce around the space and ideas and conversations,

⁸ SVB 2022 10K Filing.

⁹ The tech #MeToo is from the author’s prior works, see Xuan-Thao Nguyen, #MeToo Innovators: Disrupting the Race and Gender Code by Asian Americans in the Tech Industry, 28 *Asian American Law Journal* (2021): 17–56; Xuan-Thao Nguyen, Disrupting Adhesion Contracts with #MeToo Innovators, *Virginia J. of Social Policy & Law*, 26 (2019): 165–199.

¹⁰ Katie Benner, “Women in Tech Speak Frankly on Culture of Harassment,” *The New York Times*, June 30, 2017, available at: www.nytimes.com/2017/06/30/technology/women-entrepreneurs-speak-out-sexual-harassment.html (last accessed September 18, 2023); Sara O’Brien and Laurie Segall, “Sexual Harassment in Tech: Women Tell Their Stories,” *CNN Tech*, July 2017, available at: <https://money.cnn.com/technology/sexual-harassment-tech/> [https://perma.cc/UA5A-FYCC] (last accessed November 28, 2019); John Pletz, “1 in 4 Women Report Harassment at Tech Conferences: Study,” *Crain’s Chicago Business*, March 12, 2019, 2:04 P.M., available at: www.chicagobusiness.com/john-pletz-technology/1-4-women-report-harassment-tech-conferences-study (last accessed September 18, 2023).

and so many of the normal social distances break down into collaboration,” but the hidden reality is that at the same conference, female attendees frequently face sexually explicit questions from creators of tech companies during their presentations.¹¹ During the evening, the Foo Camp unconference shifts to a casual vibe for different activities, as recalled by attendees. The drinking, and the pressure to drink, has reportedly led to male attendees continuing to pour drinks for drunk female attendees, creating an uncomfortable environment. At the Foo Camp and Startup Riot conference, a powerful technology evangelist openly sexually assaulted female attendees by putting his hands on their breasts and bottoms when others introduced him to them in public spaces. From Foo Camp to Startup Riot to Dent Conference, predators roamed and assaulted women in tech even after the women had reported the misconduct to the organizers.¹²

¹¹ Caitlin Mullen, “Where Tech Conferences Get It Wrong for Women,” *Bizjournals*, March 26, 2019, 9:59 A.M. EDT; updated: March 27, 2019, 12:32 P.M. EDT, available at: www.bizjournals.com/bizwomen/news/latest-news/2019/03/where-tech-conferences-get-it-wrong-for-women.html?page=all [<https://perma.cc/UM8J-CDYC>] (last accessed September 18, 2023) (“From sexist comments to robot strippers, tech conferences – and the industry itself – often have an atmosphere that doesn’t exactly convey gender equality in the field.”); Quinn Norton, “Robert Scoble and Me,” *Medium*, October 19, 2017, available at: <https://medium.com/@quinnnorton/robert-scoble-and-me-9b14ee92fffb> [<https://perma.cc/5QYV-TA86>] (last accessed September 18, 2023). Additionally, female attendees face sexual harassment and assaults at tech camps and conferences. Davey Alba, “A Multimillion-Dollar Startup Hid a Sexual Harassment Incident by Its CEO: Then a Community of Outsiders Dragged It into the Light,” *Buzzfeed News*, May 13, 2019, 9:30 A.M., available at: www.buzzfeednews.com/article/daveyalba/datacamp-sexual-harassment-metoo-tech-startup [<https://perma.cc/ZJK3-9539>] (last accessed September 18, 2023) (“One evening that week at an after-hours bar with a live band playing, DataCamp CEO Jonathan Cornelissen groped 27-year-old Kara Woo, a DataCamp curriculum lead. According to Woo, as other DataCamp employees milled about, a drunken Cornelissen pressed his crotch into Woo’s behind, fondling her hips and thighs.”); Gaby Del Valle, “A WeWork Employee Says She Was Fired after Reporting Sexual Assault. The Company Says Her Claims Are Meritless. A New Lawsuit Claims the Company Spent More on Parties than on Sexual Harassment Training,” *Vox*, updated October 12, 2018, 6:05 P.M., available at: www.vox.com/the-goods/2018/10/12/17969190/wework-lawsuit-sexual-assault-harassment-retaliation [<https://perma.cc/E7BG-TZZ2>] (last accessed September 18, 2023) (“The complaint, which was filed on Thursday in the Manhattan Supreme Court, details former employee Ruby Anaya’s allegations against the company. Anaya, who began working at WeWork in 2014, says she was groped by two different employees at two company-wide events where attendance was mandatory and alcohol was readily available. . . . The first alleged incident occurred in August 2017 at an annual company event called Summer Camp; on Facebook, the company described Summer Camp as a “festival-esque getaway” for employees and their guests. Anaya claims that a male co-worker “grabbed [her] from behind in a sexual manner,” and that when that employee was questioned by human resources, he said he didn’t remember the event because he was “black-out drunk.”); O’Brien & Segall, *supra*, note 9 (reporting that at a tech conference in 2014, Pavel Curda propositioned to Gesche Haas with an email that read, “I will not leave Berlin without having sex with you. Deal?”).

¹² Alyssa Newcomb, “#MeToo: Sexual Harassment Rallying Cry Hits Silicon Valley,” *NBC News*, October 23, 2017 12:30 P.M. PDT updated October 23, 2017, 12:30 P.M. PDT, available at: www.nbcnews.com/tech/tech-news/metoo-sexual-harassment-rallying-cry-hits-silicon-valley-n813271 [<https://perma.cc/G578-QXJM>] (last accessed September 28, 2023) (“Sarah Kunst, founder of Proday Media, tweeted she had reported Scoble’s bad behavior to organizers of the Dent Conference, yet he still continued to attend.”).

Meanwhile, the same behavior goes on in the ordinary workplace at Uber. Susan Fowler, a former engineer at Uber, recounts experiencing a culture of sexual harassment daily.¹³ Beginning on her first official day on the Site Reliability Engineer team, the team manager asked her to have sex with him in a string of messages over the company's chat platform. She immediately took screenshots and reported him to Human Resources (HR). HR and upper management at Uber informed her that, because it was the first time the manager had committed sexual harassment and he was a "high performer" at the Company, they would not take any action beyond talking to him. HR also ordered that Fowler choose either transferring to a different team or staying with the same team and receiving a negative review from the manager. HR explained to Fowler that the negative review would not be viewed as retaliation because she was given the option to transfer. Fowler subsequently transferred to a different team. During her one-year tenure at Uber, Fowler also documented other sexist emails and chat records and sent them to HR. Instead of working to fix the problems, the HR representative accused Fowler of initiating the incidents and blamed her for saving the emails and chat records. Her new manager then threatened to fire her if she reported him to HR. Fowler reported the threat to HR and the Chief Technology Officer. Though they admitted to her that the threat was illegal, they once again did nothing because the manager was a "high performer."

Fowler soon learned that other female engineers at Uber had similar experiences. They, too, had reported to HR to no avail. Together, Fowler and the female engineers requested a meeting with HR about the manager's sexual harassment, but the HR representative insisted that the manager "had never been reported before."¹⁴ Later, around the same time these women left Uber, the company's female workforce dropped from 25 percent women to less than 6 percent.¹⁵

Sexual harassment and misconduct are an "open secret" in the tech industry.¹⁶ The pervasiveness of the open secret occurs beyond the campfires, conferences, unconferences, and team projects. Harassment has even occurred during the initial interviews for jobs at tech companies. For example, the cofounder and former CEO

¹³ Susan Fowler, "Reflecting on One Very, Very Strange Year at Uber," *Susan Fowler Blog*, February 19, 2017, available at: www.susanfowler.com/blog/2017/2/19/reflecting-on-one-very-strange-year-at-uber [<https://perma.cc/8QH7-VBK6>] (last accessed September 28, 2023).

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ Alyssa Newcomb, "#MeToo," *supra*, note 11 ("Much like Hollywood and the Harvey Weinstein story, a culture of sexual harassment and misconduct being perpetrated by some of the most powerful men in Silicon Valley had long been whispered about. The technology industry's shameful open secret was publicly aired earlier this year when female founders began coming forward to share stories of male investors crossing the line.").

of a startup accelerator told a potential female hire, “I was getting confused figuring out whether to hire you or hit on you.”¹⁷

Very few women dare to speak out about this harassment for fear of destroying both their careers and personal lives. For example, entrepreneur Cheryl Yeoh did not speak out after Dan McClure pushed himself against her in a corner because she “had to preserve” her business relationship with him to ensure a contract was signed that same week.¹⁸ The few female founders in the industry have received lurid texts, groping, and unwanted sexual propositions. Female founders Niniane Wang, Susan Ho, and Leiti Hsu all described their dealings with a partner at a VC firm.¹⁹ Wielding their economic prowess, venture capitalists have attempted to use their companies’ funding to silence the female founders.²⁰

Tech companies go after “talent,” which, in reality, means just male talent. That translates into rewarding male tech workers who are deemed “high performers” with a slap on the wrist when women report sexual harassment.²¹ Tech companies protect high-performing men by driving women out of the workplace. They do this by refusing to grant transfers, giving them negative reviews, and threatening to fire them. But forcing women out of the industry is not the only way that the tech companies protect perpetrators of sexual misconduct.

Tech companies have also paid powerful predators attractive exit packages. A survey by Blind reported that 33.05 percent of respondents stated that their companies have paid “high dollar exit packages” to employees accused of sexual

¹⁷ Alyssa Newcomb, “Silicon Valley Grapples with How to Fix a Sexist Culture,” *NBC News*, July 26, 2017, 3:15 P.M., available at: www.nbcnews.com/tech/tech-news/silicon-valley-grapples-how-fix-sexist-culture-n776906 [https://perma.cc/F8E3-LE6R] (last accessed September 28, 2023).

¹⁸ Cheryl Y. Sew Hoy, “Shedding Light on the ‘Black Box of Inappropriateness,’” *Cheryl: Breadcrumbs: A Series of Connected Events*, July 3, 2017, available at: <https://cherylyeoh.com/2017/07/03/shedding-light-on-the-black-box-of-inappropriateness/> [https://perma.cc/GX8C-PJPC] (last accessed September 2, 2022).

¹⁹ Sarah Lacy, “Binary Capital’s Justin Calbeck Accused of Unwanted Sexual Advances towards Female Founders. Where’s the Outrage?,” *PANDO*, June 22, 2017, available at: <https://pandodaily.com/2017/06/22/binary-capitals-justin-caldbeck-accused-unwanted-sexual-advances-towards-female-founders-where-outrage> [https://perma.cc/W9TH-CCU3] (last accessed September 2, 2022). See also Laura Sydell, “How a Female Engineer Built a Public Case against a Sexual Harasser in Silicon Valley,” *NPR*, December 13, 2017, 1:17 P.M., available at: www.npr.org/sections/alltechconsidered/2017/12/13/568455103/how-a-woman-engineer-built-a-public-case-against-a-sexual-harasser-in-silicon-val [https://perma.cc/82XN-F8WM] (last accessed September 28, 2023).

²⁰ Sarah Lacy, “Founder: Days before Scandal Broke, Binary’s Justin Caldbeck ‘Tried to Use Funding to Shut Me Up,’” *PANDO*, June 24, 2017, available at: <https://pandodaily.com/2017/06/25/niniane-wang-days-scandal-broke-binarys-justin-caldbeck-tried-use-funding-shut-me> [https://perma.cc/P3AZ-8QVP] (last accessed September 2, 2022).

²¹ Marianne Cooper, “The 3 Things That Make Organizations More Prone to Sexual Harassment,” *The Atlantic*, November 27, 2017, available at: www.theatlantic.com/business/archive/2017/11/organizations-sexual-harassment/546707/ [https://perma.cc/XP9Y-U24V] (last accessed September 18, 2023) (reporting that Amazon’s CEO Jeff Bezos’ silence after Roy Price, head of Amazon Studios resigned amid sexual harassment allegations, “continues a pattern of inaction by the company”).

misconduct.²² These companies include Google, Intel, Booking.com, Uber, Microsoft, Cisco, Overall, Oracle, Amazon, Apple, LinkedIn, and Facebook. For example, Google paid Android founder Andy Rubin almost \$100 million amid employees accusing him of sexual harassment. Google also paid \$15 million to Amit Singhal, also accused of sexual harassment.²³

There is yet another way the tech sector has been enabling sexual misconduct: the tech culture fails to punish powerful male employees or employers who have sexually harassed women, even encouraging rivals to hire them or prompting investors to fund them. A long list of examples illustrates this. Google paid Amit Singhal to leave the company, but Uber immediately hired him, allowing him to collect \$15 million from Google and enjoy new power at Uber.²⁴ Eyal Gutentag, Uber's LA general manager, left the company after multiple employees reported him for groping female subordinates. Four months later, Gutentag had a new powerful position as Chief Operations Officer at HopSkipDrive, a competitor of Uber.²⁵ He subsequently joined ZipRecruiter, a tech unicorn valued at more than a

²² Kyle McCarthy, "1/3 of Tech Employees: My Company Has Given Generous Exit Packages to Employees Accused of Sexual Misconduct," *BLIND BLOG*, November 13, 2018, available at: www.teamblind.com/blog/index.php/2018/11/13/one-third-of-tech-employees-my-company-has-given-generous-exit-packages-to-employees-accused-of-sexual-misconduct [https://perma.cc/7K FH-2D3A] (last accessed September 2, 2022).

²³ Nate Swanner, "Sexual Harassment Payouts in Tech: Here Are the Worst Offenders," *Dice*, November 15, 2018, available at: <https://insights.dice.com/2018/11/15/sexual-harassment-payouts-tech-companies/> [https://perma.cc/AzXU-WR8A] (last accessed September 19, 2023); see also Jillian D'Onfro, "Google's Approval of \$135 Million Payout to Execs Accused of Sexual Misconduct Sparks Fresh Employee Backlash," *Forbes*, March 12, 2019, available at: www.forbes.com/sites/jilliandonfro/2019/03/12/googles-approval-of-135-million-payout-to-execs-accused-of-sexual-misconduct-sparks-fresh-employee-backlash/#6dea10e23cf3 [https://perma.cc/CLZ6-D2SZ] (last accessed September 19, 2023).

²⁴ Shannon Liao, "Google Confirms It Agreed to Pay \$135 Million to Two Execs Accused of Sexual Harassment," *THE VERGE*, March 11, 2019, 8:35 P.M. EDT, available at: www.theverge.com/2019/3/11/18260712/google-amit-singhal-andy-rubin-payout-lawsuit-accused-sexual-harassment [https://perma.cc/T7ZL-T8Z7] (last accessed September 19, 2023) (reporting that Google first offered to pay Amit Singhal \$45 million but then reduced to \$15 million because he joined Uber, a rival company); Gabrielle Canon, "Google Gave Top Executive \$90m Payoff but Kept Sexual Misconduct Claim Quiet: Report," *The Guardian*, October 25, 2018, 6:42 P.M., available at: www.theguardian.com/technology/2018/oct/25/google-andy-rubin-android-creator-payoff-sexual-misconduct-report [https://perma.cc/TR79-WGV5] (last accessed September 19, 2023) ("[E]xecutives had relationships and extramarital affairs with subordinate employees, including David Drummond, Alphabet's chief legal officer," with Jennifer Blakely, who "was then transferred to another department, before leaving a year later, having been asked to sign paperwork saying she had departed voluntarily. Drummond's career, meanwhile, accelerated."); Mike Isaac & Daisuke Wakabayashi, "Amit Singhal, Uber Executive Linked to Old Harassment Claim, Resigns," *The New York Times*, February 27, 2017, available at: www.nytimes.com/2017/02/27/technology/uber-sexual-harassment-amit-singhal-resign.html (last accessed September 19, 2023).

²⁵ Ryan Mac & Davey Alba, "These Tech Execs Faced #MeToo Allegations. They All Have New Jobs," *BuzzFeedNews*, April 16, 2019, 8:00 A.M., available at: www.buzzfeednews.com/article/ryanmac/

billion dollars, as Chief Marketing Officer.²⁶ Likewise, Mike Cagney, the former CEO of Social Finance, left the company after a series of reports of sexual misconduct. He then founded a new startup with fresh funding of \$120 million.²⁷ In another incident, Steve Jurvetson left Draper Fisher Jurvetson after the firm's internal investigation about his sexual misconduct and, two months later, he debuted Future Ventures with \$200 million in new funding.²⁸

Deeply embedded in the tech community is tech bro culture.²⁹ Beyond their tech uniforms of hoodies and power vests, tech bros value power, finance, marketing, and business, in addition to tech. Caleb Williams, a former venture development specialist, wrote in Quora that the “tech bro is the latest cultural evolution of the Alpha Male super breed.”³⁰ Tech bros today include both professionals in “VC and Tech, manifesting in the form of VC’s, Product Managers, and family-funded startup founders, almost entirely localized to the Bay Area.”³¹ Williams distinguishes the “tech bro” from the “tech nerd” based on physical appearance, “because the nerd is far too interested in technology to waste time making himself look good.”³² Unlike tech nerds, tech bros possess more power, finance, marketing, and business backgrounds. Outsiders of the tech industry offer similar observations about tech bros. For example, explicit definitions of common tech bro expressions help society understand their “language.”³³

tech-men-accused-sexual-misconduct-new-jobs-metoo [https://perma.cc/X32W-WB5W] (last accessed September 19, 2023).

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Jennifer S. Fan, “Innovating Inclusion: The Impact of Women on Private Company Boards,” *Florida State University Law Review* 46 (2019): 345, 385. (noting how the bro culture has led to the rampant sexual harassment and sexist conduct in the tech industry).

³⁰ Caleb Williams, “What Is a Tech Bro?,” *QUORA*, January 17, 2020, available at: www.quora.com/What-is-a-tech-bro [https://perma.cc/Z6BH-KHC7] (last accessed September 19, 2023).

³¹ Ibid.

³² Ibid.

³³ See, e.g., Julia Carrie Wong & Matthew Cantor, “How to Speak Silicon Valley: 53 Essential Tech-Bro Terms Explained,” *The Guardian*, June 27, 2019, available at: www.theguardian.com/us-news/2019/jun/26/how-to-speak-silicon-valley-decoding-tech-bros-from-microdosing-to-privacy [https://perma.cc/84B8-GWVC] (last accessed September 19, 2023) (caricaturizing the culture of tech bros). *The Guardian* defines “tech bro” as a “US-born, college-educated, Patagonia-clad male whose entry level salary at one of the FAANG companies was at least \$125,000 and who frequently insists that his female co-workers give him high-fives. Typically works in product management or marketing. Had he been born 10 years earlier, he would have been a finance bro instead.” Ibid.; see also, Ginny Hogan, “11 Tips for Dating a Tech Bro,” *Medium: The Bold Italic*, August 19, 2019, available at: <https://thebolditalic.com/eleven-tips-for-dating-a-tech-bro-4e9fba6552bf> [https://perma.cc/X4TT-7TSD] (last accessed September 19, 2023); Kyler Sumter, “What We Mean When We Say ‘Bro Culture’,” *USA Today*, June 7, 2017, available at: www.usatoday.com/story/college/2017/06/07/what-we-mean-when-we-say-bro-culture/37432805 [https://perma.cc/42AX-VPTT] (last accessed September 19, 2023) (discussing the bro culture in the tech industry).

As tech bros ascend in power in tech firms and companies that fund tech entrepreneurs, the bro culture allows men to abuse women in tech systematically. The #MeToo movement reveals the ugly side of tech bros. Over 40 percent of women in the tech industry have reported being harassed by a boss or an investor.³⁴

Numerous examples plague the VC sector. Justin Caldbeck, cofounder of venture capital fund Binary Capital, was accused of using his position of power in exchange for sexual gain. Caldbeck targeted female tech entrepreneurs, and six women came forward with allegations against him.³⁵ Likewise, Chris Sacca, a well-known venture capitalist, an early investor in startups like Twitter, Uber, and Instagram, and a Shark Tank judge, was accused of sexually harassing a female entrepreneur at a tech gathering and admitted to “helping make tech hostile to women.”³⁶ Tom Frangione, COO at Greylock Partners, one of the oldest venture firms with \$3.5 billion under management, stepped down after accusations he engaged in an inappropriate relationship with an employee.³⁷ Dave McClure of venture fund 500 Startups admitted making “inappropriate advances” on “multiple women” and a job candidate.³⁸

Women received no relief outside the VC sector either. Tech evangelists with enormous influence like Robert Scoble have faced allegations from several women

³⁴ Courtney Connley, “Over 40% of Women in Tech Say They’ve Been Harassed by a Boss or Investor, According to a New Report,” *CNBC*, December 17, 2020, 4:00 P.M., available at: www.cnbc.com/2020/12/16/40percent-of-women-in-tech-say-theyve-been-harassed-by-boss-or-investor.html [https://perma.cc/8MAC-BBEP] (last accessed September 19, 2023).

³⁵ Nathan Vardi, “Founders of Silicon Valley Firm That Imploded Amid Sex Harassment Allegations Are Now Fighting Each Other,” *Forbes*, February 28, 2019, available at: www.forbes.com/sites/nathanvardi/2019/02/28/founders-of-silicon-valley-firm-that-imploded-amid-sex-harassment-allegations-are-now-fighting-each-other/#475f336a357f [https://perma.cc/3U4W-RQBC] (last accessed September 19, 2023) (reporting that Caldbeck faced allegations he had sexually harassed female tech entrepreneurs who sought funding and that six women came forward to accuse Caldbeck of sexual wrongdoing).

³⁶ Alex Konrad, “How Super Angel Chris Sacca Made Billions, Burned Bridges and Crafted the Best Seed Portfolio Ever,” *Forbes*, April 12, 2015, available at: www.forbes.com/sites/alexkonrad/2015/03/25/how-venture-cowboy-chris-sacca-made-billions/?sh=6cdoffcf6597 [https://perma.cc/NG94-DQHK] (last accessed September 19, 2023); Becky Peterson, “‘Shark Tank’ Judge Chris Sacca Apologizes for Helping Make Tech Hostile to Women: After Being Accused of Inappropriately Touching a Female Investor,” *Business Insider*, June 30, 2017, 3:38 P.M., available at: www.businessinsider.com/chris-sacca-apologizes-after-accusation-of-inappropriate-touching-2017-6 [https://perma.cc/L65Q-JXDV] (last accessed September 19, 2023) (reporting on Sacca’s apology for “behaving in ways that made women feel uncomfortable” and *The New York Times*’ report that he had inappropriately touched a female entrepreneur).

³⁷ Cromwell Schubarth, “Greylock Partners COO Left Firm after ‘Lapse of Judgment,’” *Silicon Valley Business Journal*, August 3, 2017, 7:04 A.M., available at: www.bizjournals.com/sanjose/news/2017/08/02/greylock-partners-coo-left-firm-after-lapse.html [https://perma.cc/WG5Z-23NH] (last accessed September 19, 2023).

³⁸ Jonathan Shieber, “500 Startups’ Dave McClure Apologizes for ‘Multiple’ Advances toward Women and Being a ‘Creep,’” *TechCrunch*, July 1, 2017, available at: <https://techcrunch.com/2017/07/01/500-startups-dave-mcclure-apologizes-for-multiple-advances-toward-women-and-being-a-creep> [https://perma.cc/Z378-B6T4] (last accessed September 19, 2023).