

My Comment on file Number 4-590

To Elizabeth M. Murphy, Secretary, Securities

Even when you have and after you have The roundtable on Additional short sale disclosures, pre borrowing requirements, short sale disclosures. The market will still have the loop holes in it that will keep the door open

The SEC has permitted billions, if not trillions, of unregistered and counterfeit shares to be sold in the name of companies by brokers and dealers.

Those shares will never be delivered to ordinary investors, thus destroying the investments of these investors and their retirement savings.

This further dilutes and destroys the market value and stock prices of thousands of companies, forcing them to downsize or go out of business and thus resulting in the loss of jobs for tens of thousands of their employees. In addition, trillions of unpaid tax dollars are not being paid to the government which, if paid, would have eased the tax burden on all ordinary taxpayers and have paid off most of our National Debt

When you have had 30 years to try to get short sale to work you have left loop holes in it or fell short on the enforcement of the laws they have in place now.

So they should stop kidding there self and stop letting the violations, including outright theft, price manipulation, insider trading, and misrepresentation continuo anymore and do the right thing and ELIMINATI of The Stock Borrow Program and end the stock short sale program.

(Whereas): The Stock Borrow Program has not worked for over 30 years

(Whereas): The Stock Borrow Program lets naked short sales (NSS) and failed to delivers (FTD) happen every day destroying our economy.

(Whereas): The Stock Borrow Program has opened the door to let Market Makers, Brokers, and other group who profit from it do so and strip companies and shareholders and this Country of money that they have worked so hard for.

(Whereas): The Stock Borrow Program has defrauded investors of 500% more money than Bernard Madoff. Over the last 30 years and is more massive than any Ponzi scheme.

The Stock Borrow Program has lost more jobs for employees closed more companies and wiped out more 401-ks. Those who take advantage of the failed Stock Borrow Program have seriously manipulated the financial regulators Such as The Securities and Exchange Commission (SEC) has been unwilling to take the appropriate actions due to a conflict of interest.

(Whereas): The Securities and Exchange Commission (SEC) was created in 1934, in the midst of the Great Depression, to restore investor confidence in U.S. capital markets. The laws that created the SEC were designed to ensure that companies selling securities must tell the public the truth about their businesses, the securities they sell and the risks

involved. The SEC may investigate a wide range of violations, including outright theft, price manipulation, insider trading, and misrepresentation.

FINRA - The Financial Industry Regulatory Authority (FINRA) was created in July 2007 through the consolidation of the National Association of Securities Dealers (NASD) and the member regulation, enforcement and arbitration functions of the New York Stock Exchange. FINRA registers and educates financial service professionals, writes and enforces rules, enforces federal securities laws, and educates individual investors.

NASAA - The North American Securities Administrators Association (NASAA) licenses brokerage firms and their agents, investigates violations of state laws, files enforcement actions, and educates the public about investment fraud.

(Whereas): It is clear to see what the Securities and Exchange Commission (SEC) and what they have not done to look out for the Investors and companies in this country.

(THEREFORE): In the interests of this Country and every American. We ask that you use the powers you have as they were intended for.
And ELIMINATE The Stock Borrow Program stock short sale program.

Make every FDT and NSS cover what they sold over the years that they did not own. Make this a priority and help eliminate the corruption in the capital markets. You can give all the money in the world at our markets and it will not FIX the problem.

This is why the short sale can't work and has not worked.

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Fails-to-deliver shares reported the day prior or the day after and

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September 22, 2008 More recently, short selling has been blamed for helping precipitate the Asian financial crisis of the late 1990s; billionaire financier George Soros famously netted more than \$1 billion by shorting the British pound in 1992

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http://www.economist.com/finance/displaystory.cfm?story_id=11921720.

89. As other regulators hustle to address the economy, the Securities and Exchange Commission needs to better enforce laws already on its books

<http://articles.latimes.com/2008/jul/17/opinion/ed-sec17>

90. By allowing investors to sell stocks they don't own but have only borrowed, short selling allows negative views to immediately be reflected in prices and creates a more efficient market July 18, 2008

http://online.wsj.com/article/SB121633656801263789.html?mod=opinion_main_review_and_outlooks.

91. 'Naked Shorting': Far More Dangerous Than Sexy

Naked shorting is a particularly **kind of short-selling**. It is so potentially harmful to shareholders that the Securities and Exchange Commission yesterday put in new protections to try to prevent naked shorting of mortgage giants [Fannie Mae](#) and [Freddie Mac](#) and major investment banks.

July 16, 2008

<http://www.washingtonpost.com/wp-dyn/content/article/2008/07/15/AR2008071502829.html>

92. Committee to Hold Hearings on Collapse of Lehman Brothers and AIG

Lax oversight and reckless investments on Wall Street are causing massive disruption throughout our Economy," said Chairman Waxman October 03, 2008

<http://oversight.house.gov/story.asp?ID=2176>

93.. Fuld blames 'crisis of confidence' October 6, 2008

Securities and Exchange Commission **moved to ban** the practice, which has been blamed for some of recent wild market swings. The SEC also recently issued a temporary ban on short selling all financial stocks

http://money.cnn.com/2008/10/06/news/companies/lehman_hearing/?postversion=2008100612.

94... Dick Fuld's Vendetta Against Short-Sellers—and Goldman Sachs Was Lehman Brothers Holdings CEO Dick Fuld driven to distraction by short-sellers as the company's stock price plunged this year.

October 7, 2008

<http://blogs.wsj.com/deals/2008/10/07/dick-fulds-vendetta-against-short-sellers-and-goldman-sachs/>

95.. This is a crisis for the entire global economy. Naked short selling, which I believe contributed to both the collapse of Bear Stearns and Lehman Brothers. Short selling by itself can be employed as a legitimate hedge against risk. Naked short selling, on the other hand, is an invitation to market manipulation.

Naked short selling, followed by false rumors, dealt a critical, if not fatal blow to Bear Stearns. Many knowledgeable participants in our financial markets are convinced that naked short sellers spread rumors and false information regarding the liquidity of Bear Stearns, or any other company.

And simultaneously pulled business or encouraged others to pull business from Bear Stearns, creating an atmosphere of fear which then led to a self-fulfilling prophecy of a run on the bank. The naked shorts and rumor mongers succeeded in bringing down Bear Stearns. And I believe that unsubstantiated rumors in the marketplace caused significant harm to Lehman Brothers. In our case, false rumors were so rampant for so long that major institutions issued public statements denying the rumors

http://news.hereisthecity.com/news/business_news/8317.cntns

96... SEC and others have also defended the practice in limited form as beneficial for market liquidity.

Its critics have contended that the practice is susceptible to abuse, can be damaging to targeted companies struggling to raise capital, and has led to numerous bankruptcies. Other commentators contend that naked shorting is more of a potential than a real problem, and have criticized the SEC for dealing with an issue that is tangential at best.

<http://www.bloomberg.com/apps/news?pid=newsarchive&sid=afpYSjiXF7iE>

97.. In March 2007, the Securities and Exchange Board of India (SEBI), which disallowed short sales altogether in 2001 as a result of the Ketan Parekh affair, reintroduced short selling under regulations similar to those developed in the United States. In conjunction with this rule change, SEBI outlawed all naked short selling.

<http://www.thehindubusinessline.com/2007/12/24/stories/2007122451310200.htm>

98... In July 2006, the SEC proposed to amend Regulation SHO, to further reduce failures to deliver securities <http://www.sec.gov/rules/proposed/2006/34-54154>.

99.. Whether the S.E.C. will go far enough to satisfy the many critics of short-sellers is far from certain. S.E.C. May Reinstate Rules for Short-Selling Stocks,

Representative Barney Frank, left, urged Mary L. Schapiro, right, head of the S.E.C., to reinstate a rule that restricts short-selling. **07-03-2009**

<http://www.nytimes.com/2009/07/03/business/03shorts.html>

Recent developments

US SEC | title=Proposed SEC 17 CFR PART 242 (Release No. 34-54154; File No. S7-12-06) RIN 3235-AJ57 Amendments to Regulation SHO] SEC Chairman Christopher Cox referred to "the serious problem of abusive naked short sales, which can be used as a tool to drive down a company's stock price." and that the SEC is "concerned about the persistent failures to deliver in the market for some securities that may be due to loopholes in Regulation SHO.

And in March 2007, the Securities and Exchange Board of India (SEBI), which disallowed short sales altogether in 2001 as a result of the Ketan Parekh affair, reintroduced short selling under regulations similar to those developed in the United States. In conjunction with this rule change, SEBI outlawed all naked short selling

And then on June 2007, the SEC voted to remove the grandfather provision that allowed fails to deliver that existed before Reg SHO to be exempt from Reg SHO. SEC Chairman Christopher Cox called naked short selling "a fraud that the commission is bound to prevent and to punish." The SEC also said it was considering removing an exemption from the rule for options market makers.

SEC Chairman Christopher Cox in March 2008 gave a speech entitled the "'Naked' Short Selling Anti-Fraud Rule," in which he announced new SEC efforts to combat naked short selling <http://www.sec.gov/news/speech/2008/video0030408cc> short.wmv Video of Christopher Cox *March 2008*

I ask you why In 2007 as they claim to crackdown ,Why do we still have all the problems we have with Short Selling?

Year after year it's the same thing they are cracking down or, new SEC efforts to combat the problem.

Even with the regulation in place, the SEC received hundreds of complaints in 2007 about alleged abuses involving short sales. The SEC estimates about 1% of shares that change hands daily, about \$1 billion, are subject to delivery failures. SEC Commissioners Paul Atkins and Kathleen Casey expressed support for the crackdown.

In July 2008, the SEC announced emergency actions to limit the naked short selling of government sponsored enterprises (GSEs), such as Fannie Mae and Freddie Mac in an effort to limit market volatility of financial stocks <http://www.bloomberg.com/apps/news?pid=20601087>

SEC to Limit Short Sales of Fannie, Freddie, But even with respect to those stocks the SEC soon thereafter announced there would be an exception with regard to market makers <http://www.wallstreetandtech.com/advancedtrading/showArticle.jhtml?articleID=209101993&cid>

News SEC Short Sale Rule Could Create a Bubble in Financial Stocks] SEC Chairman Cox noted that the emergency order was "not a response to unbridled naked short selling in financial issues", saying that "that has not occurred". <http://www.sec.gov/news/speech/2008/spch071808cc.htm>

Analysts warned of the potential for the creation of price bubbles.

September 17th, 2008, the SEC issued new, more extensive rules against naked shorting, making "it crystal clear that the SEC has zero tolerance for abusive naked short selling". Among the new rules is that market makers are no longer given an exception. As a result, options market makers will be treated in the same way as all other market participants, and effectively will be banned from naked short selling <http://www.sec.gov/news/press/2008/2008-204.htm>

SEC Issues New Rules to Protect Investors Against Naked Short Selling Abuses] Sept. 17, 2008]

Rather than fixing any of the real problems with the agency and its mission, Cox and his fellow commissioners waved a newspaper and swatted the imaginary fly of naked short-selling. It made a big noise, but there's no dead bug. <http://online.barrons.com/article/SB121702597332186163.html>

External links and further reading.

Short Selling FAQ: Securities and Exchange Commission.

Naked Short Selling FAQ: Depository Trust and Clearing Corp.

AMEX's daily and monthly Regulation SHO threshold security list.

NYSE's Regulation SHO threshold security list.

NASDAQ's Regulation SHO threshold security list.

SEC stock delivery failures charted.

George G Fitzpatrick 09/2009
