

February 6, 2009

ES 128638

James F. Kane Jr.
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Mary L. Shapiro
Chairperson Securities and Exchange Commission
Securities & Exchange Commission
100 F Street, NE
Washington, DC 20549

Subject: 1. Please Suspend Mark to Market Accounting - Fair Value Accounting:
2. Reinstitute the Up-Tick Rule as it relates to shorting stocks:

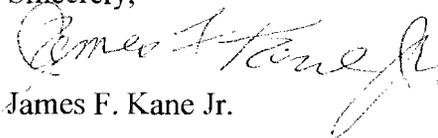
Dear Madam Commissioner:

Congratulations on your appointment and good luck as you tackle the very challenging issues that will certainly be facing you as we move forward in the current financial crisis.

Your predecessor has refused to suspend Mark to Market accounting in the interest of transparency and for investor's benefit. I can assure you that I have had enough transparency over the past year to last me a life time and I do not feel benefited as I watch the banks stocks head toward zero. It makes no sense to me that on one hand, capital is loaned to banks and on the other, we make them write down assets using mark to market accounting rules that value long term assets at fire sale prices, which in turn increases their need for capital, which in turn makes it more likely they will come to the government for more TARP Funds. We are in fact destabilizing our banking system in favor of some purist accounting methodology. As these banks become less solvent, I can assure you that I take no solace knowing that these long term assets are valued on the banks balance sheet at the lowest possible level at a given point in time and reflecting the worst housing market in 80 years. Accounting should be accurate but it should also be realistic.

On a separate but related issue, reinstating the Up-Tick Rule will go a long way in preventing speculators from ganging up on a particular stock and forcing it down. With our financial stocks being hit as hard as they have been lately and continuing to be pounded this week, it makes no sense to me to allow these stocks to be shorted without some circuit breakers in place and the Up-Tick Rule is just such a device. I hope that you will consider these issues and agree to make the above subject changes as they will help and cost nothing to implement, they surely couldn't hurt. Thank you for your time and attention to this matter.

Sincerely,


James F. Kane Jr.