June 15, 2009

Ms. Elizabeth Murphy
Secretary, Securities and Exchange Commission
100 F Street NE
Washington DC 20549-1090

File Number: S7-08-09

Dear Ms. Murphy,

In my 10 years as an equity trader, I have seen the inflation and deflation of numerous asset bubbles. From the technology bubble of the late 1990s to the corporate debt, securities, and commodities markets of last year, it is pretty difficult to find a major asset market that hadn't failed during that time. With each failure, it seems that people look for scapegoats, when the answer is always the same: the expansion of easy credit and the panic that ensues when that credit contracts. Manias and panics have been around since the invention of markets and the creation of credit. Reinstating the uptick rule will have little to no effect on the real problems you are ostensibly trying to address.

I understand that there is quite a bit of anger about the market dislocations, but this is nothing new. Scapegoating is often as emotionally gratifying in the short term as it is counterproductive in the long term. Historically, previous credit contractions and panics have resulted in misplaced anger toward ethnic and religious minorities, especially Jews. Because European Jews were restricted to certain professions throughout the Middle Ages, including banking, credit contractions often resulted in increased anti-Semitism. Pogroms certainly did nothing to help the European economy recover after these previous dislocations. The problem was the expansion of credit to finance wars, not the Jewish scapegoats. I point this out to show the harmful effects of not addressing the root causes of economic dislocation and the harmful effects of scapegoating.

Those who want the uptick rule reinstated seem to not realize that many bank profits from 2004-2007 were illusory while the losses of 2008 and 2009 are all too real. Some of the too few voices in our media warning of this inevitable collapse came from short sellers. They were ridiculed by the same commentators who cheered on the dot com and real estate bubbles. Jim Cramer, in particular, deserves criticism for hyping investment bank after investment bank, and repeatedly bringing on his "friend" Angelo Mozillo to discuss how overblown the mortgage problem was and how well these companies manage their risk portfolios. It does not surprise me that he is misdirecting his audience and pointing the blame elsewhere. But CNBC transcripts are filled with Cramer imploring his viewers to buy financial stocks. Many of these companies are now out of business or have merged with others that managed their risk only slightly more prudently. Most of our largest banks would be insolvent without government bailouts, below market price loans, and government loan guarantees. Some still are. Still, most of the banks that went through the recent "stress test" had to raise additional capital. This after the short sellers had supposedly pushed down equity prices below their proper value. Note to Jim Cramer: The short sellers were right.

Short sellers didn't offer me mortgages, home equity loans, or 0% interest credit cards in my email everyday from 2003-2007. Banks and mortgage brokers did. Just as I received numerous emails touting the proven techniques of technology stock gurus in 1999, irresponsible banks and credit card companies offered a huge expansion of credit to anyone with a pulse during the housing boom. At the same time these companies lobbied for and got unprecedented changes in bankruptcy law, foreseeing the problems their customers were bound to have. Later, investment banks lobbied for and received permission to leverage their balance sheets to levels they hadn't seen since before the Great Depression. They were cheered on by the Federal Reserve and the Bush administration. The enormous expansion of credit and the failure of proper risk control killed the financial industry, not some evil cabal of short sellers.

Ms. Murphy, you could vote to reinstate the uptick rule. But that would be counterproductive and would not address the American economy's very real problems. Instead, it would likely have the effect of postponing the necessary changes Americans need to fix our economy so that it works for everyone. I hope that you will take this letter into consideration.

Sincerely,

Thomas Hochleutner

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