

October 3, 2008

Open letter to the Securities and Exchange Commission:

I want to address your review of the short-sale rule and how it applies to Middle America.

First, a little background, my wife and I as many of our generation came to begin saving and planning for retirement in the late 70's and 80's. This is the generation that are in the 50's and 60's and are most concerned about their impending or current retirement. Many of us outside government and huge companies were forced to plan our own retirement via 401k's and IRA's. In our case we were responsible and basically asked two questions, one how much contribution would our employer match and what direction. Since we were young we mostly had 3 choices for direction, aggressive, conservative or balanced. With limited knowledge or education in these areas, we selected aggressive as that was the recommendation for young people under 45.

As years passed we received annual statements which showed some years up, some years WAY up and some years down as would be typical of this type of investing. In the last 10 years however things have changed and most of the changes have benefited the wealthy, connected or intensely educated investor at the specific and direct disadvantage of Middle America. Some of these changes include changing from eighths to pennies on company pricing, electronic trading, off-market transactions and hugely rewarding insiders who trade for advantage and indirectly themselves via Hedge Funds and other such mechanisms.

Insider trading has and remains illegal but little prosecuted. Yesterday there was a clear example when Goldman Sachs stock went up 20 points or almost 18 percent in the last hour and in extended hours trading three hours before Warren Buffett announced an investment of 5 billion dollars in that firm. This is merely one example of what all of us in Middle America understand is our common disadvantage. However short-selling has become a great example of an insider or sophisticated investor being ALLOWED to do something that my investment in Mutual Funds does not allow and has developed into a transfer of wealth from Main Street to Wall Street.

Let me amplify my point, sophisticated individuals sell a stock at 100 for delivery next week, they then either praise a competitor or lie about the company they purchased. They have multiple forums for this disinformation, representing themselves as experts or insiders they communicate via Internet message boards or business cable channels (as merely 2 examples). This then creates a stampede effect to sell and remember all they have to do to make money is cause the stock to fall by uncertainty. This action when successful then causes the rating agencies(Moody's, S&P) etc. to downgrade the company's debt which then causes the stock to fall further. This nefarious action can then create a ladder situation where the original company attack funds the next company attack and so on. Clearly this is unethical and in certain areas illegal but rarely prosecuted, but I suspect frequently implemented.

Frankly not all short-selling is illegal but I maintain that since it is a tool available only to the most sophisticated it should be eliminated. It is important to note that statistically this tactic has drastically increased in the last 10 years. Middle America and employees of small and mid-size business depend on a level playing field through investment in 401k's and ira's into Mutual Funds for our retirement and we need fairness. WE DIDN'T CHOOSE THIS METHOD IT WAS CHOSEN FOR US BY GOVERNMENT ACTION AND PREFERENCE. Unless you have 500k or more you can't hire an expert to execute a trading strategy that includes short-selling and I've watched this year as our retirement money has declined by 15 percent even though half is in bonds as appropriate for our age. Yet hedge fund returns remain high by any standard as effectively they are stealing money in a direct transfer from Middle America to the ultra-wealthy.

I understand that rules are in place but infrequently enforced that require them to "borrow" the stock but not actually own it. Additionally I hear advocacy for the "uptick" rule but since we now trade electronically in pennies that seems extremely ineffective. I would encourage elimination of short-selling by forcing an individual or entity to actually own the stock to sell it and use the option market via calls and puts to protect themselves even though that's not a perfect situation, so long as insider trading exists in some form the playing field can never be fully level.

You say "Under normal market conditions, short selling contributes to price efficiency and adds liquidity to the markets". Frankly you don't have enough cops to police it so it remains constantly abused. Please return fairness to those of us who didn't choose government for our employer and only have social security and our hard-earned savings to fall back on.

Sincerely,

George Wilkinson