

24 November 2008

Chairman Christopher Cox
Securities and Exchange Commission,
100 F St. NE, Washington, D.C. 20549-1090

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SEC's Sympathy With Short Sellers Who Are Ruining Good Companies
Feedback on Interim Final Temporary Rule Number 34-58785 / S7-31-08

Dear Mr. Chairman Cox:

SUMMARY

SEC should:

- Stop its sympathy for short selling hedge funds and modify rule number 34-58785 / S7-31-08 immediately to expose who large short sellers are. SEC's argument for not having this transparency makes no sense (argument below).
- Make short selling of ALL companies illegal for a period of one year,
- Aggressively enforce your naked short selling rules,
- Add a pre-borrow requirement,
- Require the prompt disclosure of all failures-to-deliver, including those which occur outside of the DTCC's continuous net settlement system.
- Replace your head of Enforcements who has done too little to enforce naked shorting rules.
- Reinstate the uptick rule immediately.

DISCUSSION

Your remarks below remind me of those of FDA Commissioner, Dr. von Eschenbach, when he pledged to protect cancer patients by helping to bring them new forms of treatment (e.g., immunotherapy) and said the FDA would "be a bridge to the future, not a barrier." His remarks turned out to be only lip service, as just a short while later the FDA instead became a barrier by denying thousands of late stage cancer patients immediate access to the biologic agent the FDA's own panel of experts had deemed effective and safe. This decision proved a boon to the chemotherapy industry, and hedge funds that had legally shorted and illegally naked shorted Dendreon Corporation.

On October 8, 2008 you stated: "Today, we are continuing to build on that essential premise: that investors have a right to know the truth — and the risks — about the securities that trade in our public markets. Never in this agency's history has this fundamental mission been more relevant, and more urgent. The current credit crisis has shown the importance of transparency to a healthy marketplace — and how costly hidden risk can be."

Mr. Chairman Cox, let's face it, the SEC's hands-off approach has allowed manipulative hedge funds to continue to abusively naked short sell, which has contributed to the financial mess the country is in. You're doing too little, too late. The purpose of this letter is to show one aspect of this SEC's sympathy for short sellers and beg you for corrective action.

In Interim final temporary rule "17 CFR Parts 240 and 249 [Release No. 34-58785; File No. S7-31-08] RIN 3235-AK23" **DISCLOSURE OF SHORT SALES AND SHORT POSITIONS BY INSTITUTIONAL INVESTMENT MANAGERS**, you have protected the short sellers by keeping the identity of the large short sellers hidden from public. This is appalling. The reasoning given is the copycat concern: "We are concerned that publicly available Form SH data could give rise to additional, imitative short selling."

The real reason behind not wanting to make this information public seems to be the fact that big short sellers would be embarrassed and companies will know their enemies (many of whom may be posing as friends!). No wonder hedge funds have lobbied so aggressively to not have their hands exposed. If long positions are reported and can be copied, how and why is that different from short positions? The excuse that it may make the market drop is absolute nonsense. The markets drop more when abusive short sellers attack. When a company knows its enemies, it will know who to deal with. Companies will not look to their enemies to raise funds –enemies who turn around and use the shares against the company. Instead, you should be working to create a level of transparency the investors have the right to have.

The fact is, agents of certain short sellers continually posting on message boards and use other means to create fear, anxiety, doubt, and misinformation to get people to sell their shares. And now the SEC continues to show sympathy for the short sellers. In addition, the SEC has done little to enforce its own naked short selling rules. Why does the SEC continue to follow a hands-off approach that lets the abusive short sellers and illegal naked short sellers do anything they want to destroy hard working companies who are trying to make the world a better place?

When are you going to stop showing so much sympathy for hedge funds who are ruining the economy? Do you think the shorts who have sold 10,000,000 shares of Beacon Power Corporation (Nasdaq: BCON) have a better wish than to see the company, whose innovations is declared by the US government to be important for the electric grid of tomorrow, destroyed? Why is the SEC not telling us who the large short sellers of Beacon Power and many other companies are? Why did the SEC restrict short selling in financial stocks alone? Because of your apparent sympathy for short sellers / large powerful hedge funds whom in this latest order are allowed to hide their short positions from the eyes of public. Mr. Chairman Cox, please shed light on these hedge funds. That light may just dispel the darkness! Let us know who the large short sellers are. Modify rule 34-58785 / S7-31-08 immediately to make it more transparent. The public deserves to know who large short sellers are.

Furthermore, I encourage you to make short selling of ALL companies illegal for a period of one year, and aggressively enforce your naked short selling rules, and add a pre-borrow requirement, and require the prompt disclosure of all failures-to-deliver, including those which occur outside of the DTCC's continuous net settlement system. Replace your head of Enforcements – a division that appears sympathetic to naked short sellers. Lastly, please reinstate the uptick rule immediately. Short sellers don't need any more help and sympathy than they've been getting.

Thank you very much for your kind consideration.

Respectfully,

Reza Ganjavi

<contact info snipped for web posting>

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