June 20, 2007

Mr. Chairman and members of The Commission Staff,

Today is a day in which you should be ashamed of the lack of activity by the commission is preventing market abuses.

As delivered in a memo to each of you earlier today, I am outlining for the public what I relayed to you in my memo. For the past 2-days a bear raid has taken place by members of Wall Street and will become the norm in the future as the short sale regulations continue to linger with the gaping loopholes created.

Jag Media is a pinksheet stock that up to last week had been trading near $0.70 - $0.80. It lingered in this price range awaiting the long delayed SEC S-4 registration approval of a proposed reverse merger. Last week however, due to an article in Swing Trader, the stock ran and by Monday June 18 it traded as high as $1.59 before closing at $1.46. During the 3-day trading session where better than average shares were traded, market makers settled on the offer and sold into the market naked shorts under the exemption of bona-fide market making.

The market makers were not obligated to sit on the offers but they did. Each time selling short inventory they did not have but selling short shares that quickly became out-of-money positions.

On the third day of this upward trading the stock suddenly took a radical and unexplained turn. With pre-market setting up for yet another positive open the pre-market was collapsed on trades that were later cancelled and the stock opened lower. The initial $1.50 X $1.51 market at 9:15 was squelched when a 500 share trade into the $1.50 bid was made. The market instantly changed to $1.45 X $1.46 and that 500 share trade that moved the pre-market offering was cancelled as fast as the market changed.

Then, Within the first 5 minutes of the opening bell the stock was trading down 15% and traded in that vicinity for the remainder of the day. Was this the covering of fails that were now lingering as a liability from the prior 3-days trading?

The forth day (today) saw more of the same as the $1.36 stock opened up with a major sell-off on low volume and once again the stock collapsed, this time to $1.18 in the first 5 minutes.

What turned the 3-day market momentum into a major sell-off and a sell off that was harshest within the first 5-minutes of the trade day?

Well from sources I have on Wall Street the answer could be quite simply, Wall Street set up a raid.

One source provided insight that Smith Barney, who as a matter of policy does not permit the short selling of pink sheet securities, was suddenly offering up shares of Jag Media to short after years of restricting such activity. Smith Barney was playing a visible role of market maker in Jag Media during this recent run up.

Not to be outdone, Goldman Sachs was offering shares of Jag Media as a locate/loan on a short sale to institutional investors with no lending fee. Yup, the stock loan program was giving away free shares and those no-fee shares just happened to be for the short sale of a security they recently played a market making role in during the most recent run up.

Goldman Sachs did not become the number one firm on Wall Street by giving away free service unless it wasn't exactly free.
Any fails associated with market making activities during the recent run up could have easily been covered as the peak price of $1.59 on Monday afternoon suddenly came into a $0.93 low on Wednesday at noon.

Between uncontrolled market making activities, where a market maker can continue to make a market in a security in which they have a cover requirement, and where firms engage in a conflict of interest with short sellers, the fails created by Wall Street will only result in more manipulative and volatile markets.

The SEC should immediately investigate the activities of Goldman and Smith Barney and should immediately investigate the pre-market and open market trading in Jag Media these past two days. Any sell side bona-fide market making exemptions must be investigated for manipulation and more so if those engaged in these trades had a considerable out-of-money short in the stock already due to prior market making activities.

Regulation SHO and the newly proposed rules will continue to be a bust as long as regulators ignore the signs and ignore the conflict of interest between a market maker covering a bona-fide naked short and a market maker making a market at the same time. The SEC should clearly identify that when a cover is in place for a market maker, that firm must refrain from being on the offer unless that offer directly represents a client position. A covering market maker can not be the best offer creating a lower market perception than exists. If a cover is identified as mandatory at market open, the firm must be restricted from bona-fide short sales until such time as that cover is closed.

As for the tick test, bear raids, and market controls. If short sales are what precipitated the collapse of Jag Media your analysis that shorts into a downtick have no impact on a market are handedly refuted. The first 5-minutes of trading the last two days have been sales into the bid taking out all demand and driving the market rapidly lower.

Apparently Wall Street could not wait for you to eliminate the price test before demonstrating how easy it is to manipulate a stock through short selling.

Of particular interest will be the data I obtain under FOIA some 2-months from now. If the fails were accumulating leading into Tuesdays collapse and suddenly those fails were eliminated during this raid my theory will hold weight and will be yet example of SEC denial. Like insider trading, coincidences are most likely not coincidences but fraud.

For the record, I called Goldman Sachs to get confirmation on the information I received from the client. Goldman denied the offer was made to any institutional client claiming a locate would be required. While I had the Goldman rep on the line the rep also denied that Goldman was involved in any wrongdoing regarding the recent $2 Million fine they received for allowing institutional clients in 2002 to sell through their electronic trading system mis-marking shorts as longs despite the SEC actions. The rep also had no comment on the 2006 NYSE fine against the company for again the mis-marking of short sales and failure to close out fails in violation of Reg SHO.

Maybe all this fraud taking place is just a simple misunderstanding in communication between the institutional client and these firms. That would have most likely been the excuse used had this client actually taken Goldman up on the short sale offer.

The Data:

The 3-day run up was based on an article by Swing Trader. What caused the rapid and drastic turn around at market open on Tuesday after the positive momentum into the Monday close is unknown? Note the volatility of the trading June 20, 2007. High of $1.36 low of $0.93 and within 5 minutes the $1.36 open was trading at $1.18.

- 2.5 Million Shares trade Monday with the stock opening at $1.19 reaching a high of $1.59 and closed at $1.45.
- Tuesday's Market opens at $1.45 drops to $1.35 in first 5 minutes, trades as low as $1.28 and closes at $1.36 on 1 million shares.
- Wednesdays Market opens at $1.36, drops to $1.18 in the first 5 minutes, trades as low as $0.93 and closed at $1.12 on 2.1 million shares.

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