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April 10, 2009

Chairman Mary L. Schapiro,
Securities and Exchange Commission,
100 F Street,
Washington, DC, 20549,
USA

RE- Response to Request for Comments on Short Selling Rules



Dear Chairman Schapiro,

I am a retired person who relies upon the integrity and honesty of the stock market to protect my nest egg, or what is now left of it. Having just witnessed **the greatest destruction of American wealth ever**, the time is certainly ripe to learn from this once-in-a-lifetime event and permanently put in place rules to ensure this never happens again. I believe that was done before, during the Great Depression, and undone somewhat in 2005. **Fact: nobody saw this coming**, highlighting that we really do need better rules and regulations.

- I have no problem with short selling. I do have a **major problem with abusive short selling** that in effect manipulates the price of a stock and creates panic situations.
- I have a **monumental moral and ethical problem with selling a stock that does not exist**, as is the case with abusive naked short selling. Tighten up and strictly enforce Regulation SHO, no excuses.
- I am **not in favor of rules which are triggered by certain events**. A rule is a rule, no exceptions, and stands to create a floor or limit that cannot be manipulated or gotten around. Let's go with right or wrong, and get rid of the gray areas and maybes.
- I have a **major problem with the fact that I must play by one set of rules while hedge funds and big money play by another**. I cannot manipulate the market, hedge funds collectively can, and probably do, which is illegal. Why are hedge funds given preferential treatment, managers pay 15% tax as if LTCGs while I pay full rates? Why are hedge funds not subject to regulatory scrutiny or reporting like everybody else, and as Madoff showed, can be crooks or houses of cards? It seems hedge funds, who cater to the 2% most wealthy get dealt the best hands while the other 98% of us get higher taxes, more rules and regulations and must bear the brunt of their manipulative and often illegal activities and watch our retirement accounts dwindle before our eyes as the result of their activities. If it's good for the goose, it's good for the gander- I see no justification whatsoever for having different rules for different people- everybody must play by the same rules. I believe it is called a level playing field. Anything else is welfare for the wealthy. All those millions of IRA's and 401(K)'s do not have a chance against the big professional money managers with the deck stacked.
- Why is short interest so mysterious**, and only reported monthly, while long interest is reported daily and even by the minute? It all goes through the same computer, so the

data is there. Perhaps if short trades were reported the same way as long trades, there would be more understanding of the process, less fear of what is going on, and more ability to detect manipulative practices.

With over \$11 Trillion in debt, the good ship USA must be considered a risky venture, sailing in fog near a rocky shore. Market volatility is at an all time high. Since that debt will not be repaid anytime soon, the markets are not likely to get any less volatile. You say that you want to restore confidence to the markets. If you are really serious, then use your rule making power to address sources of volatility and areas of unfairness in the system. My recommendations are as follows:

- Restore the uptick rule.** I don't care what certain studies say, the public perception (leading to loss of confidence) is that the 2005 relaxation of rules and the current meltdown are inexorably linked. That is what people think. Returning to tried and true Great Depression stopper rules will help restore confidence. Failing to restore such rules will send a very clear message that rule making is on the side of the big money fat cats, and it's time to get out of the market while your 401(K) still has some value left.
- Eliminate naked short selling and actively prosecute offenders.** Naked short selling is abusive. How can you sell a stock that does not exist? The volatility in the market and the fact that there are stocks with almost half their outstanding shares held short smacks of a naked shorting problem. To my way of thinking, this should never have been tolerated and is just plain ethically wrong. Who in their right mind would ever allow this to happen? Does this boost your confidence in the system? Not mine. Making people go through the proper process of borrowing the stock, and playing by the rules, and getting fined if they don't, slows down the process a bit, promoting less volatility and more confidence. The uptick rule does the same thing. Tighten up and strictly enforce regulation SHO.
- Keep it simple.** Make clear rules that are very difficult to circumvent, make them apply all the time, not just when certain events happen, and have them apply universally and equally to everyone. Making the rules conditional, tricky, and difficult to interpret and understand will not restore confidence.
- Create a level playing field.** Everybody needs to play by the same rules. I am scared to death that hedge funds get preferential treatment while they manipulate the market and make billions shorting my 401(K), and I panic and sell at a huge loss. Or worse, I have to sell at a loss to put food on the table each month. For my confidence to return, I would like to see rules that we all play by, and make the hedge funds disclose what everybody else has to disclose. As a retiree, continuing to give the hedge funds preferential treatment (welfare to the wealthy), dooms my nest egg, and sends a dire message of no confidence in the system.
- Remove the shroud of mystery from short sales.** We are all fearful of what we do not know and cannot see. I believe the "in" word is transparency. If long sales are transparent, then short sales are opaque. Until that shroud is removed by having short and long components of the market reported in the same way, I am not going to have any confidence that my portfolio is safe from manipulators and abusive short sellers. Once a month does not cut it. By the time I get the confirmation that my biggest holding is being shorted to death, it is too late. Not much of a confidence builder. For example, my stock takes a big dip. Is there a fundamental problem, or is it under attack? To have

confidence, I need timely short interest data to make an informed decision to buy or sell. My confidence would be greatly boosted by seeing the whole picture rather than just half of it.

I hope that these comments are of use to you and hope that there is someone in the SEC who will listen to the plight of the little guy. **Individually, we remain insignificant, but collectively, we are the market. Collectively our IRA's and 401(K)'s are the market.** However, individually we are the most exposed and subject to manipulation, hence subject to loss of confidence leading to panic selling for the benefit of the abusive and manipulative short sellers. Thank you in anticipation for protecting each one of us, for protecting us collectively and for creating and policing a fair and level playing field.

Yours faithfully,

A handwritten signature in black ink, appearing to read "R. Caldwell". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

Robert H. Caldwell, PhD