(On Febuary 8, 2005, a full page advertisement appeared in the Washington Post. This was certainly a major milestone in the fight against naked short selling - kranker2000)

An Open Letter on
The Abuse of Naked Shorting

February 8, 2005

George W. Bush, President of the United States
William H. Donaldson, Chairman of the Securities and Exchange Commission
Chuck Hagel, Chairman of the Senate Subcommittee on Securities and Investment
Richard Baker, Chairman of the House Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Dear Mr. President and Honorable Chairmen,

As Congress considers incorporating private investment accounts into Social Security, it is essential that equity markets be fair, transparent, and not subject to flagrant abuse.

Unfortunately, illegal naked short selling is rampant in the markets today. It has been permitted to flourish unchecked, doing serious damage to the market value of many sound businesses, and is literally stealing money from the widows, retirees, and other small investors who purchased stock in these companies.

Naked short selling has been illegal since 1933, when the SEC was established. It was banned because naked shorting resulted in significant abuses that contributed to the crash of '29.

That the problem still exists today is undeniable. The SEC recently enacted Regulation SHO (for SHORT selling). The Regulation creates a list of companies whose stock has been sold but not delivered in significant amounts. "Naked" short shares have, in effect, been counterfeited. They are as different from normal short shares as fake money is from real money. The ability to print counterfeit shares at will allows a hedge fund to destroy a company's value over time by creating an artificial (and fraudulent) supply of stock. If this were cash, computers, or jewelry, the perpetrators would be behind bars. Yet apparently the rules are different for Wall Street—the SEC, the NYSE, and the NASDAQ exact no meaningful penalties, thereby allowing the practice to continue.

Though the recently instituted Regulation SHO Threshold list informs investors on a day to day basis which stocks are experiencing "failures to deliver" (i.e., naked shorting), it does not disclose the size of the failures—the public has no way of knowing whether they are in the thousands or millions of shares. The DTCC (Depository Trust Clearing Corporation), the NYSE, and the NASDAQ, who compile the data and publish the list, won't tell anyone how big the problem is. Yet there is no rule or regulation that prevents them from making that disclosure.

Shareholders deserve to know how many fraudulent shares exist for every security on the Regulation SHO list. By withholding the one piece of information that could level the playing field between the public and naked short sellers, the regulators are hurting the public by protecting the violators.

To make matters worse, the regulators charged with protecting the public are not only failing to enforce the rules on the books, they have decided to "grandfather" the "fail to deliver" violations that existed before January 7, 2005. This is like letting bank robbers keep the proceeds from their past robberies, while warning them that there will be toothless penalties if they rob the same bank again. To repeat—naked shorting has been illegal for 70 years.

The chief violators are unprincipled hedge fund operators who take advantage of the absence of meaningful penalties to target smaller companies. The brokerage community and the DTCC are complicit, as brokers receive a commission for every naked share traded and the DTCC receives a fee for every phantom share borrowed. The losers in the equation are the shareholders and the companies, who are defenseless against this systemic gritt.

Why is this lawless predation on the investing public not only condoned, but also rewarded by excusing all pre-January 2005 violations? Who benefits other than the violators? Who is being shielded? Where is the consideration for the millions of unsuspecting investors seeking to supplement their retirement income—people who innocently rely on a "level playing field?" Where is a Congressional Oversight Committee? Where is the media?

Most importantly: how can private accounts be made part of the Social Security system when such flagrant abuse and manipulation of the equity markets goes on?

What must be done:

We have no quarrel with legitimate short selling, which can serve a valid and useful function in the markets. But as a group of shareholders who own some of the stocks on the Regulation SHO Threshold list, we call on the SEC and our elected officials to put a full stop to the illegal, abusive practice of naked short selling. The following four actions are essential at a minimum:

1) Enforce the existing rules. No exceptions. No looking the other way. The rules were written to protect the public by preventing naked shorting. Enforce the rules with meaningful penalties and prosecutions.

2) The DTCC and the Exchanges must disclose the number of shares that have not been delivered each and every day, for each company on the Threshold list.

3) Eliminate the grandfathering of existing undelivered stock sales. Enforce the buy-in provisions on ALL naked short positions, not just the latest violations.

4) Demand accountability for how this breach of the public trust occurred, and fix the problem rather than covering it up.

There is no excuse for allowing a group of predators to fleece the public and victimize sound companies for their own profit. This is one of the rare problems that can be solved quickly, easily, and at no cost—except to those who have abused the rules. The SEC has to stand up to the community it is supposed to be regulating, enforce the law, and eliminate the grandfathering of violations that occurred prior to an arbitrary date in January.

Until the illegal abuses in the markets are corrected, private investments in Social Security cannot be considered secure.

Sincerely,

2/8/05- FIRST FULL PAGE WASHINGTON POST AD LINK
http://www.ncans.net/files/NCANS%20WPost%20Ad.pdf

2/10/05- SECOND WASHINGTON POST AD LINK
A second advertisement was placed in the Washington Post. Containing a summary of key points from the original 2/8/05 ad, it can be viewed here,
http://www.ncans.net/files/NCANS%20WPost%20Ad.pdf

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