

IN ALL FAIRNESS

What's Up With The SEC?

Martha Stewart has served her prison sentence, but the Securities and Exchange Commission (SEC) is still pursuing civil enforcement action against her for insider trading, a charge not made in her criminal trial. If only the SEC were as relentless in investigating truly serious allegations of stock manipulation by plaintiffs' class action attorneys and short sellers.

Here's how the game is played: Investors, employees, pensioners, and companies lose millions of dollars in stock value each year thanks to abusive class action practices. Plaintiffs' lawyers drive down those stock prices through behind-the-scenes contacts with Wall Street analysts, friendly media, and short sellers. Their goal is to force targeted companies into settling meritless suits. And it's all being done right under the noses of SEC regulators.

The SEC has been sitting on several complaints of misconduct filed by the Washington Legal Foundation, and supported by the U.S. Chamber of Commerce, detailing examples of questionable stock manipulation by short sellers and class action attorneys.

Sue and manipulate schemes

In one case, it appears that the timing of a class action lawsuit was leaked to short sellers who, in turn, shorted the stock right before the suit was commenced. After the suit was filed, the stock price predictably fell, and the short sellers made a handsome profit. In other cases, short sellers and trial lawyers dish dirt about a targeted company to financial reporters, analysts, and regulators, and the damaging news sends the stock price plummeting, thereby forcing the company to settle. Short sellers then reap the profits when the stock drops.

These short-selling tactics recently backfired when the stock price of a targeted tech company continued to rise until the whole sector crashed. So trial lawyers quickly swung into action by filing a securities class action claiming the company withheld negative information. Unbelievably, they failed to disclose that their clients were the same short sellers who did their best to tank the stock price! A suspicious federal judge hearing the case recently ordered the lawyers to disclose their questionable links with the short sellers.

But why doesn't the SEC put a stop to these class action shenanigans? They are looking the other way while class action attorneys enjoy a free-for-all, reaping millions in windfall fees to the detriment of shareholders. Why isn't the SEC taking legal and regulatory action to prevent stock manipulation and to protect investors from the looting by plaintiffs' lawyers? Shouldn't there be rules and oversight to deter these trial lawyer abuses?

For the sake of its own credibility, the SEC needs to conduct a thorough investigation of the unholy alliance between class action attorneys, analysts, media, and short sellers. The SEC must show America that it can get tough with more sinister villains than Martha Stewart.



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