

THE SHAREHOLDER SERVICE OPTIMIZER

HELPING PUBLIC COMPANIES - AND THEIR SUPPLIERS - DELIVER BETTER AND MORE COST - EFFECTIVE PROGRAMS

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IN THIS ISSUE:

- **FIXING THE SEC: OUR RECIPE FOR A TOTAL MAKEOVER**
- **A FEW 'QUICK FIXES' A NEW SEC COULD VERY EASILY MAKE**
- **TWO BIG ISSUES THE SEC STILL NEEDS TO WRESTLE WITH**
- **A FEW RULES AND REGS THE ISSUER COMMUNITY WOULD ACTUALLY LIKE TO SEE**
- **THE DEATH OF "BUY AND HOLD INVESTING"?**
- **IT'S TIME TO PROOFREAD THOSE PROXY PACKAGES... THIS TIME ON YOUR WEBSITES TOO: OUR TOP PROOFREADING TIPS (ALL OF THEM LEARNED THE HARD WAY)**
- **A THANK YOU...AND A NEW YEAR'S CHALLENGE**
- **HISTORY: HARRY OF HANOVER SQUARE, AND WHAT WE CAN - AND SHOULD - LEARN FROM HIM TODAY**
- **PEOPLE**
- **REGULATORY NOTES... AND COMMENT**
- **ON THE VENDOR SCENE**
- **WATCHING THE WEB**

LET'S WORK TOGETHER TO FIX THE SEC: IT CAN AND MUST BE FIXED, WE SAY...

Just a few short months ago, we met with a fairly large group of very senior public-company people...and one of the top worries that surfaced was the kind of pressure there'd be for quick regulatory 'fixes'...with all the disruption, extra work - and all the unforeseeable 'unintended consequences' this would likely bring upon us..

Regulatory bodies, as we all well know, are notoriously slow at grasping the realities of complicated things like securities markets, but dangerously fast at laying blame and mandating 'solutions' when things go wrong: Much like a big boss your editor once had, who sheepishly admitted, after a big blunder, "like my wife always says, my instinctive style is 'fire, ready, aim'."

Today, however, the biggest potential threat the public-company community is facing may well come from public calls to merge the SEC with the Futures Regulators...and to divide-up most of the real 'regulatory work' between the Treasury Department and the Fed.

As head of an SEC-regulated entity for 20 years - and as a watcher, commenter on and explicator of SEC goings on for 40+ years now - your editor has concluded that we absolutely MUST fix the SEC...and not dismember it limb by limb as the crowds in the political arena seem to be demanding.

Twelve years or so ago, the SEC was widely considered to be the very BEST Federal Agency there was. We believe that it can be - and actually MUST BE so once again...if the original, Congressionally-mandated mission to protect investors is to be carried out successfully, and if investor trust is ever to be restored. We DO have a tried and true recipe, if we choose to follow it...and to supply the needed ingredients...so here it is, for your consideration:

FIRST AND FOREMOST, WE NEED TO PLACE THE FOCUS BACK ON THE SEC'S LEGALLY MANDATED MISSION: It's INVESTOR PROTECTION... in case, like the SEC, you've lost track.

Most of what the SEC has done in recent years has been simply *lawyering*: Look at the SEC's recent record of 'accomplishments': A truly massive piling on of more and more legalistic disclosure requirements, albeit with a patronizing tip of the hat to average Moms and Pops by insisting that all of this mostly mind-boggling trivia be in Plain English...A bunch of little techie-toys like XBRL and a new version

continued on page 2

LETS WORK TOGETHER TO FIX THE SEC...

continued from page 1

of the hopelessly dumb-from-the get-go EDGAR...A new study on the ways investors really use required SEC filings (big surprise [??]...they don't!) and a bunch of fruitless blabbing at "roundtables" on things like proxy access...while the crooks, as we now know, were blithely pillaging the stores.

For starters, we need to make sure the *new* SEC understands upfront that to fulfill its real mission, real "investor protection" requires hard and rigorous work... constant vigilance, by well-informed vigilantes...frequent and rigorous real-world testing and *hands-on inspection*...by true professionals...who know what they are doing, and who are dedicated to upholding the highest ethical standards too...and meaningful and well-publicized penalties when there are violations. (We were *especially pleased* to hear Chair-elect Mary Schapiro voice essentially the same sentiments we'd already drafted, as above, in her confirmation hearing).

STEP-TWO - OR REALLY STEP-ONE, ONCE YOU'VE GOT THE MISSION THING STRAIGHT - BROADCAST THE RIGHT TONE FROM THE TOP, AND MAKE SURE IT COMES THROUGH LOUD AND CLEAR:

Arthur Levitt did it with distinction. And we feel cheered to see Mary Schapiro - also a distinguished career public servant - as SEC Chair-elect. We are also happy to see yet another distinguished career public servant - Elisse Walters - who also has hands-on knowledge about the way securities markets work - already seated on the Commission. These are the kinds of role models and mentors the SEC staff sorely need to have. Setting the right tone at the top will go a very long way toward attracting and retaining the kind of dedicated public servants the SEC had long been noted for... and now needs more than ever.

DE-POLITICIZE THE SEC: OK, we can see a certain logic in letting the majority party pick a majority of the Commission, but let's face this too: Investor Protection is not - nor should it ever become - a partisan political issue.

But if we look at the ways the SEC has failed us in recent years, we'd have to place most of the blame on partisan wrangling over the very *idea* of regulation...and the incredibly foolish belief that ruled the decade - that 'free markets' and 'self-regulatory organizations' would adequately regulate themselves.

Who were the biggest malefactors here? *Political appointees* - mostly not-very-successful lawyers who had a few political chits to call in - and a few not-very-distinguished academics who toed the party line about "de-regulation" and basically managed to block every proposed new initiative at the SEC... none of whom had any real-world securities industry experience...except, perhaps, as professional parsers of and opiners-

on regulatory minutia...or as wannabe *aspirers* to a cushy corporate or Wall Street job.

And let's not miss the fact that over the past ten years Congress itself deserves a great deal of the blame, for fostering de-regulation at every turn and for holding back adequate SEC funding.

ADD REAL FIRE-POWER, AND REAL BRAINPOWER AT THE TOP:

We think that five Commissioners is way too small a number of top guns to adequately deal with all the issues the Securities Industry is struggling with today. We'd vote for seven - or maybe nine, like the Supreme Court. But all of them absolutely need to bring brainpower, industry know-how, a willingness to work hard, a dedication to public service - and to the mission - and unimpeachable integrity to the Commission as a whole.

MORE IMPORTANT, OVERHAUL THE ENTIRE MANAGEMENT AND MIDDLE-MANAGEMENT STRUCTURE, TO ELIMINATE POLITICAL FIEFDOMS, ROUT-OUT THE DEAD-WOOD, AND TO ADD REAL BRAINPOWER AND REAL MANAGEMENT SKILLS:

Now that we think about it, we need to *do away with* the basically powerless "Commission" we have today - where each Commissioner has a little staff all his or her own - and where they can't even meet with one another, except at public hearings. We need to institute a *real management structure* instead - with an active and able CEO, and a stellar Board of Directors in charge of a unified, professional and professionally recruited staff.

EXPAND THE SEC BUDGET SIGNIFICANTLY, IN ORDER TO HIRE STAFF WITH REAL-WORLD KNOW-HOW...THAT WILL BE COMMENSURATE IN TERMS OF SIZE AND SKILL-SETS TO THE BIG RISKS, AND THE BIG TASKS WE'RE SUDDENLY SEEING WERE OUT THERE ALL ALONG:

In the year following the ENRON disaster, the SEC budget was increased by a mere fraction of the amount that then Chairman Levitt asked the Congress to award. This despite the fact that the SEC was and still is a significant net *contributor* to the Federal Treasury (with over \$1 billion in fines and penalties alone, collected in 2007!). Few if any of the tiny amounts of new dollars granted were spent on actual inspection and enforcement activities, however: In fact, the number of fraud cases the SEC brought fell by three-quarters since 2002. Now, of course, we're all paying *trillions of times over* for this politically-inspired budgeting blunder.

Simply throwing money at the problem is not the solution, of course: We need a brand new, zero-based, top-to-bottom rethinking of the SEC budget...that will put most of the money where the real risks, and the real problems are, and that will focus on REAL investor protection measures. We

continued on page 3

LETS WORK TOGETHER TO FIX THE SEC...

continued from page 2

need not just a whole new top-management and middle-management staff, we need an entirely new infrastructure, we say - that focuses most of the SEC's budget - and most of its brainpower - on inspection and enforcement.

DEVELOP A FORMAL, RIGOROUS AND ONGOING 'FIELD TRAINING PLAN AND PROGRAM' FOR ALL STAFF MEMBERS; ONE THAT WILL ASSURE THAT THEY WILL KNOW WHAT THEY REALLY NEED TO KNOW IN THEIR AREA(S) OF FOCUS...AND WON'T BE SO EASILY FLIM-FLAMMED:

We think this little quote from whistleblower Harry Markopolos - part of an email he sent in April 2008 to Jonathan Sokobin, the SEC's newly appointed head of the office of risk management on a matter he'd been whistle-blowing to them about since 1999 - pretty much tells it all: "Attached is a submission I've made to the S.E.C. three times in Boston. Each time Boston sent this to New York. Megan Cheung, branch chief, in New York actually investigated this but with no result that I'm aware of. In my conversations with her, I did not believe that she had the derivatives or mathematical background to understand the violations." As we now know, by Bernie Madoff's own admission to his kids, investors are now out \$50 billion...And this despite the fact that, as Chairman Chris Cox recently admitted, "credible and specific allegations"[about Madoff] "were repeatedly brought to the attention of SEC staff"...which 'investigated' his operations multiple times, beginning as far back as 1999...but which "were never recommended to the Commission for action."

(Your editor, by the way, has had similar, *repeated experiences* as a whistle-blower to the SEC, in connection with the abandoned property scams where several prominent transfer agents were clearly skimming-off tens of millions of dollars that rightfully belonged to "lost shareholders" - and creating serious potential liabilities for their corporate clients, to whom they owed a duty - and whom they did not fairly inform, or share the loot with either. Guess who we were emailing initially at the SEC? None other than Eric Swanson - currently Bernie Madoff's nephew-in-law - though no doubt, it's a mere coincidence. But the upshot of the little bit of investigating the Philadelphia office eventually initiated - based on *another* whistle-blower's tips - led to a mere slap on the wrist, and a promise not to do this kind of 'stuff' anymore...and to the departure of the frustrated SEC agent in charge, when Headquarters basically blew him off too). So on to the next important ingredient...

MAKE SURE THAT SEC INSPECTORS AND ENFORCERS STOP COZYING-UP TO THE FOLKS THEY'RE SUPPOSED TO BE INVESTIGATING: ESTABLISH AND ENFORCE A STRICT THREE-YEAR COOLING-OFF PERIOD BEFORE AN SEC STAFFER

WHO IS AT A SENIOR ADVISORY OR POLICY-MAKING LEVEL CAN TAKE A PRIVATE SECTOR

JOB: At first blush, this might seem like a counter-productive thing to do if the goal is to attract our best and brightest, but we think not: There are *lots* of smart, public-spirited people out there who will be eager, and proud to work for an important agency that represents the highest degree of ethical and professional integrity, witness the SEC's own former successes..

And right now, with Wall Street layoffs in the tens of thousands, there are a lot of such people with significant real-world experience in the securities industry who are desperate for meaningful work, and a reasonable degree of job security...and who know exactly where and how "the bones" can easily be buried by potential fraudsters.

There are lots of older, early-retired folks too - including lots of victims of the current credit crunch, and of Bernie Madoff - who could and would bring a lot to a properly focused and properly revamped SEC - either as full time staff or as paid or honorary consultants and advisors.

Sorry to say it, but there's only one real explanation for the massive oversights in oversight at the SEC...and the repeated failures to investigate credible allegations of wrongdoing...and that's the desire to curry favor with the very folks the staff is supposed to be watching...coupled, it seems, with a related, SEC-wide aversion to doing any real work. Instead of trying to show how sweet and smart they are, they need to be bearing - and sometime baring - the fangs they're supposed to have.

RECOGNIZE THAT A MEANINGFUL AND LASTING FIX OF THE SEC AIN'T ALL THAT COMPLICATED:

Jesse James had this figured out decades ago, and most other thieves and fraudsters know this too: **Go where the money is!** Why the SEC, or the Congress haven't been able to figure this out is beyond our comprehension...except, maybe, for the fact that doing so requires actual WORK.

ABOVE ALL...WE SHOULD NOT BE TRYING TO MERGE THE CFTC AND THE SEC, NOR SHOULD WE BE PARCELING OUT THE WORK OF 'PROTECTING INVESTORS' TO THE TREASURY, OR TO THE FED:

At first blush, these might seem to be mighty tempting things to do, given the desire to do *something*...and to do it *fast*...Plus there's the tempting fact that SEC Chair-elect Mary Schapiro was a CFTC Chairperson too, earlier on...and plus... we're all damned angry at the SEC, as well we should be.

But pork-bellies or grain futures are very different kinds of creatures than "real stocks" and bonds are. Further, there

continued on page 4

LETS WORK TOGETHER TO FIX THE SEC...

continued from page 3

clearly isn't enough talent to go around at *either agency* just now, much less to wrestle with the incredibly complex, highly 'political' and intrinsically disruptive aspects of a merger.

As we think on it, Chris Cox was right about *something here*: Credit Default Swaps - and all uncovered options, we say - are actually NOT 'securities' as *he* rightly said. Although, for sure, they need some kind of regulation - as he did, rather wimpily and very belatedly suggest to Congress, to no avail - they, and countless other kinds of "synthetic equities" or pre-packaged "synthetic debt instruments" are merely *gambling chits*, where, basically, the gamblers should, quite literally and quite justifiably, live or die on their own *luck*. We're fine with

leaving them to the "futures" regulators. But meanwhile, real *investors* should be *protected* - or at least loudly forewarned - that instruments like these are NOT stocks or bonds, or other securities covered under the Securities Acts. Nor should they be allowed to be cleverly disguised or marketed as such.

IN SHORT...WHAT WE MOST NEED ARE FREQUENT AND RIGOROUS INSPECTIONS - BY PEOPLE WHO ACTUALLY KNOW WHAT THEY ARE DOING - TO ASSURE THE RULES ARE BEING FOLLOWED AND THAT INVESTORS ARE BEING PROTECTED. WHAT WE NEED LEAST ARE MORE RULES AND REGS.

A FEW 'QUICK AND EASY FIXES' FOR THE "NEW SEC"

❑ FOR STARTERS, LET'S RID OURSELVES OF THAT FALSE DICHOTOMY - AND THE TOTALLY STUPID DEBATE ABOUT 'RULES-BASED' VS. 'PRINCIPLES-BASED' REGULATION:

While principles are great - and we should all have 'em - we all need RULES for the really important stuff. The fact is - as every parent knows, and as every *regulator* should know - one can rationalize, and excuse almost *anything* "in principle"... But "rules are rules".

❑ DON'T BLINK ON MARKING TO MARKET:

Talk about another area where the politicians and other know-nothings took over what should have been a rational debate - totally confusing 'cause' and 'effect', as usual, while looking to lay blame (as usual) for the credit crisis!!! Fortunately, wiser heads *seem* to have won the day here, but PLEASE hang tough, and on the side of LOGIC, even while recognizing that "market values" of instruments with severely impaired markets ARE going to be subjective to a degree.

❑ MAKE THE SEC FOLLOW SOX RULES:

- For starters, how about making senior executives on the Commission sign-off and attest to the fact that they have "reasonable controls" and "reasonable control measures" and "reasonable tests as to reasonableness" in effect where their own systems, procedures and public pronouncements are concerned - on which we, the SEC "stakeholders" can rely? (A really strong argument, we think, for restructuring the SEC to look and work more like a corporate model).

- Make sure the SEC isn't allowed fudge, or otherwise dress-up its numbers: The INFORMER, in the 12/8/08 issue of *Forbes* magazine, for example, blew the whistle on no less a luminary than the SEC's own enforcement chief, Linda Chatman Thomsen (no real surprise to regular Chatman Thomsen watchers) for issuing a press release that bragged about "The second highest number of enforcement actions ever." On closer inspection, the *Forbes* reporters discovered that 56 administrative cases - revoking the registration of tiny companies that had not filed documents for two years, and many of which were *defunct* - were in the SEC count of 671 "enforcement actions"...vs. only 2 such cases in the number-one year for enforcement...which was 2003! Eerily like a pre-SOX earnings release, we'd say. And how's this for some real FACTS, courtesy of the Jan. 6, 2008 *New York Times*; SEC fraud prosecutions have fallen by three quarters since 2002.

- Let's be sure too that all senior officials - just like "independent corporate directors" are required to do under SOX - can make a credible showing as "totally disinterested parties in all the matters that come before them...hence, the proposed three-year cooling off period before SEC staffers can take an industry job.

- As we also learned, post-SOX, senior SEC officials need to have controls in place to be sure that no "waivers" of the rules can be granted...like the rul-

continued on page 4

A FEW 'QUICK & EASY FIXES' FOR THE "NEW SEC"...

continued from page 4

ing the SEC made in favor of the Madoff brokerage firm, exempting it from the SOX requirement that brokers be audited by a PCAOB-registered firm...on the grounds that Madoff was 'privately held'. Or how about the waiver on trading rules they issued, that was actually called "the Madoff exception" by the SEC staff.

□ **TUNE-UP THE WHISTLEBLOWER PROCESS AND PURSUE EVERY 'WHISTLE' RIGOROUSLY:** Here's a truly *excellent* SOX reform - albeit one that seems more honored in the breach in D.C. - and especially at the SEC - than in the observance:

- Log every "whistle" in - just as *SOX* requires. Make sure the top-dogs are aware of the frequency, subject matter and disposition of each kind of "case"...just like *SOX* requires...and that the reasons for dropping the investigation pass the sniff test.

- Get rid of the attitude - just like most public companies still need to do - that whistles are mostly blown by NUTS and MALCONTENTS...(This may actually be RIGHT, but that's all the more reason to listen, we say! If you aren't nuts - and malcontented - over some of the stuff we've seen, you are REALLY nuts!)

- Make sure that whistle-blowers are properly protected from reprisals, as *SOX* also mandated: Remember the whistleblower who was FIRED in 2005 by the SEC - just weeks after receiving an excellent performance review - when he wouldn't back away from the Pequot Capital mess, as his 'superiors' told him to do???

- Enforce the rules without 'exceptions': When the Inspector General says "censure" - don't ignore it, as if you'd never asked, or been *told* what to do! Remember what happened next in the whistleblower story, where the SEC's own Inspector General ruled that one of the most senior SEC staff members (you guessed it, Linda Chatman Thomsen, the SEC's 'enforcement chief') should have been censured for tipping off a lawyer for Morgan Stanley that John Mack would probably escape any scrutiny in the Pequot mess...but she wasn't? Guess she was granted a "waiver".

□ **INCREASE, AND PUBLICIZE WHISTLEBLOWER BOUNTIES:** Hey! Money talks! Just think how much we'd be willing to pay NOW...if only someone had halted Bernie M before he bilked all his best friends and favorite charities for \$50,000,000,000.00!!

□ **MAKE THE SEC RULEMAKING AND ENFORCEMENT PROCESSES MUCH MORE TRANSPARENT...AND MUCH MORE RESPONSIVE TO INFORMED OPINIONS FROM THE PUBLIC AT LARGE:** We've written almost a *dozen* long, and (we still think) thoughtful, and fact-filled and example-filled letters to the SEC over many years...all strictly *pro-bono*. And we have never received a written response to a single one. Once, we had a phone call from a staffer, asking for a bit of info...and ONCE, an investigator actually asked if we would visit, to explain the "mechanics" of a scam we were whistle-blowing about to his staff. (We were rarin' to go, but he left in disgust soon afterward, thanks to the roadblocks to the investigation the SEC headquarters staff threw up). And, btw, we're still seething over the fact that the SEC has never once responded to written petitions from the Business Roundtable, the Society of Corporate Secretaries, NIRI, the STA, five of the largest U.S. technology firms...and numerous others...including US... for a review of the proxy system.

TWO REALLY BIG FIXES THE SEC - OR SOMEBODY - STILL NEEDS TO TACKLE:

1. FIX THE PUBLIC ACCOUNTING INDUSTRY PRONTO: Frankly, this isn't part of our core expertise, but one thing seems crystal clear: *Someone* - or some entity - that is truly trustworthy, and truly diligent, and that has the assets to withstand a suit for gross negligence needs to actually "count the beans" at public companies, and to do so with regularity. (Just look at the recent revelation that Price Waterhouse failed to discover that 'cash in the bank' was short by a billion dollars, while accounts receivable were overstated by a half billion dollars at Indian outsourcer Satyam, and that real profits were only 10% of what they reported...to know the current system ain't fixed!)

2. FIX THE RATING-AGENCY FIASCO - PRONTO! We could hardly believe our own eyes when the proposed SEC solution to over-reliance on over-inflated bond ratings was for companies to do their own research! Yikes! This is perhaps the most nit-witted thing the currently nit-witted SEC has ever put out!

HERE ARE A FEW RULES AND REGULATIONS THAT ISSUERS OF SECURITIES WOULD ACTUALLY LIKE TO SEE FROM THE SEC... ALL OF THEM VERY SIMPLE FIXES, WE SAY:

TOTALLY ELIMINATE NAKED SHORT SELLING:

We still can't figure why smart people haven't been able to understand exactly how naked short sales cheat investors – and how they can and do create *cascades of sales* to spook legitimate investors into panic selling - so the shorts can lock-in their profits, guaranteed - AND how simple the “fix” to the naked short-selling scandal really is:

Here's the simple FIX: Every single trade must be settled on T+3, or a mandatory buy-in must be executed by the seller's agent...No excuses or exceptions allowed; something the SEC is *still* – shockingly and *wrongly* allowing.

We're been equally surprised by the large number of *very smart people* who think that restoring the “uptick rule” is the solution to the problem. It isn't – especially since with trades now moving in one-cent increments, any crook in town can create an uptick to sell on, but still fail to deliver, sale after sale, after sale.

Let's patiently review what should really be SIMPLE LOGIC, about the way securities markets are *supposed to work* – AND also about the INEXORABLE, BUT BASICALLY SIMPLE LAW OF SUPPLY AND DEMAND:

□ First, let's remember that one of the main reasons the SEC was formed in the first place – and THE main reason that SEC *registration* of all publicly tradable shares was and is required – is to prevent fraudulent ‘over-issuances’ of securities. In other words, if 100 shares of Company-A are registered, and I own 10 of them, the SEC rules and regs are meant to assure that I own one-tenth of the company, regardless of whether the shares are \$1 each or \$10 each.

□ Second, let's note that when shares are “sold short” there is *always* - by definition - a *buyer*. That buyer is entitled to have possession of his shares, and ALL the rights pertaining thereto, on T+3...And, under the present system, the buyer's agent automatically credits him with the ownership.

□ But thus, please note, it is not enough for a seller to simply “locate shares” or to simply “ascertain that shares are available for lending” as current SEC rules seem to say is sufficient: The “short seller” must *literally* “borrow” the shares – and *literally deliver them to the*

buyer for cancellation and re-registration; otherwise the issuer is “over-issued”.

□ Let's review: For every single day a short-seller is allowed to go “naked” – i.e. the seller or his agent has failed to *deliver* the shares sold for cancellation – the issuer is literally “over-issued” by that number of shares.

□ In other words, if I sell 10 shares, and the buyer has taken ownership of ten shares...but I haven't delivered 10 shares for cancellation...there are now 110 shares ‘floating’ out there in our little example...And, most important to notice; in *economic terms*, this represents a 10% dilution of the SEC-Registered shares.

□ Theoretically, the 10% dilution – and the accompanying economic distortion of the true “equilibrium price” of the stock – is supposed to be immediately *corrected* by a forced “buy-in” of the undelivered shares, which will automatically bring the price back to a market-based “equilibrium” price.

□ But, when the buy-in rule is NOT strictly enforced, as is presently the case, ‘smart’ naked-short-sellers will make as many more naked-short-sales as they possibly can – since allowing shorters to go naked almost guarantees that the shares will *continue to fall* – which will allow them to “cover” at even lower market prices than if they'd covered on time.

□ Please note carefully that allowing “naked shorts” to go uncovered by T+3 creates a “*double whammy*” in terms of market dynamics AND in terms of the economics: Not only is there a frightening drumbeat of repeated sales – that tends to encourage a barrage of covered-sales too - each “naked sale” dilutes the number of shares that are really *outstanding* - on a *direct share-for-share basis*: The BUYERS are *always* being credited with the shares they've bought, but NO shares have been presented for cancellation.

□ Please note too, that IF a mandatory buy-in takes place, the “outstanding shares” are immediately brought back to the *Registered number of shares* –AND the market purchase automatically assures that the PRICE is brought to a market-based “equilibrium number”...which, of course, is *the correct number* from a *market-based perspective*.

continued on page 7

A FEW RULES AND REGULATIONS...

continued from page 6

□ Let's review the math again: If I make a short sale of 10 shares of the 100 shares outstanding on Monday, and don't deliver on Thursday – and I am not automatically bought-in - as *theoretically required*, Company-A is over-issued by 10%. If I decide to make another naked short sale of 10 shares - and once again fail to deliver, and fail to get bought-in, Company-A is now over-issued by 20%. Make no mistake about it: the SEC is allowing this to happen every single day!

□ Let's review the *consequences* again: The market - and the market price of the stock - are being *inexorably distorted*...because in reality, sellers are being allowed to sell something they do not have...or ever PLAN to have –AND, for every day they are allowed to 'go naked' they have been allowed to sell shares that should no longer truly *exist* under the Charter and Bylaws of the company – or under SEC rules.

So let's sum up: There is absolutely nothing wrong with short selling...as long as one ponies-up the shares on settlement date...regardless of whether one owns them outright or borrows them. (If one bets the wrong way, as very often happens, and the shares go UP – and pass the point where the seller "sold short" legitimate short sellers will, of course, have to "cover their bet" at some point, and *repay* the borrowed shares – either by delivering shares they may now own, or by buying them at the market price, which keeps the price of said shares at the market-based "equilibrium price").

But NOTE WELL: There IS something that is both immoral and *illegal* about selling something you DON'T OWN – or where you haven't *actually* borrowed the goods to make delivery...and MADE delivery, pursuant to the normal terms of the sale. (And if you sold short with no intention of ever delivering the goods...that's fraud.)

If one allows the SUPPLY of shares to multiply by 5%, or 10% or more – as naked short sellers actually have done...while the "DEMAND" to buy shares is constant, other things being equal, the PRICE of said shares will definitely FALL. (This is the first law of economics, by the way). And if one adds to the normal desire to sell – by initiating a panic, fueled by sales of shares the one doesn't own, and doesn't intend to lay claim to and deliver by the agreed upon date...(i.e. an artificially-induced 'disequilibrium' between real supply and real demand)...the price will fall even more!

NAKED SHORT SELLING IS NOT A FIGMENT OF SOMEONE'S IMAGINATION: WE KNOW OF LOTS OF COMPANIES THAT DISCOVER AT ANNUAL MEETING TIME THAT THERE SEEM TO BE 50% MORE SHARES OUTSTANDING THAN THEY HAVE OFFICIALLY "REGISTERED" WITH THE SEC...AND YOU CAN FIND SUMMARIES OF "OPEN SHORT INTEREST", QUANTIFYING UNSETTLED SHORT-SALES IN THE DAILY PAPERS. THE SEC CAN FIX THIS DISGRACEFUL SITUATION WITH THE STROKE OF A PEN!

FIX THE "EMPTY VOTING SCAM": THIS IS A TRAVESTY, THAT U.S. COMPANIES HAVE BEEN WHISTLEBLOWING ABOUT FOR 5+ YEARS, ALSO TO NO AVAIL: Guess what? If the SEC fixes the naked-short-selling scandal – by insisting on T+3 delivery of sold shares – whether previously owned or 'borrowed' – *or*, failing that, an automatic buy-in on T+3 - they will automatically fix a very big part of the "empty voting" scandal too. (When there's a naked short sale, as we HOPE you've figured out from the above section, the buyer automatically gets the vote...but the party who has not delivered has created an EXTRA vote... since the issuer is now "over-issued" until the short-sale is covered, and, until then, an "extra" number of votes are still outstanding).

But there IS still some confusion in the securities lending world, and some very bad recordkeeping too, which we believe is defrauding investors when it comes to the "value" of their vote...and which should be fixed pronto:

And this too is very easy to fix: All that is needed is for the SEC...or FINRA, if they prefer to take the lead, to simply DECLARE that votes remain with the LEGAL OWNER of the shares...unless such owner executes an irrevocable proxy, signifying that he has given up the right to vote, in favor of the proxy-holder.

As we've mentioned here in earlier columns, there is nothing new about "buying votes" – and there is nothing intrinsically wrong about it either, as long as there's reasonable disclosure.

But there IS something wrong with selling votes and not giving the proceeds to the OWNER of the vote, as many brokers are clearly doing. And there is also something very wrong with using 'loopholes' in the rules, and exploiting deficiencies in the recordkeeping systems to surreptitiously RIG a corporate election - which statistical studies indicate is actually happening with regularity.

continued on page 8

A FEW RULES AND REGULATIONS...

continued from page 7

BROKER A SETTLEMENT OF THE PROXY

ACCESS DEBATE: We're not *entirely sure* that the corporate community is ready to face up to this yet, but clearly, the struggle over "proxy access" has been a consistently losing battle for them to date. As we've written at length, the unintended consequences of trying to fight this off – chiefly the move to oust directors anyway, through vote-no campaigns and other *ad-hominem* attacks – have been far worse than the proposed 'remedy'...which we believe would be applied only at companies that are *in extremis*.

Further, as we've also pointed out, how is it "good governance" to let the likes of Carl Icahn nominate two directors with only a 5% stake in a company, as he did at Yahoo, and at Motorola - with no commitment to hold onto it - and with, clearly, only his own interests in mind...and often, with no election at all, for at least a year, and sometimes for three?

We say, let's compromise on a reasonable number – let's say 10% of the outstanding shares – where a like-minded group with 10% combined would be able to nominate let's say a *minority* of the directors standing for re-election at any meeting; so one of three, or five of twelve, with the highest vote-getters taking their seats. We can't imagine how *any* savvy group of inflamed investors could possibly fail to reach this threshold – IF they have a point that is. And, since corporations are already being

bullied into action by folks with far less than 10% we don't see how *they* could possibly complain.

American companies can not really afford to have "too easy access" to the proxy statement...just as activist investors can't afford to mount a lot of fruitless election campaigns...so let's get this stupid, time and money wasting distraction behind us.

CONDUCT THE TOP-TO-BOTTOM REVIEW OF THE PROXY DISTRIBUTION AND VOTING SYSTEMS, AND THE NOBO/OBO MUMBO-JUMBO THAT THE ISSUER COMMUNITY HAS BEEN CALLING FOR - FOR 10 YEARS NOW:

How can it possibly be considered "good governance" for the SEC *NOT* to formally review, and put out for bids, a system that affects every public company and every single investor – and that has not been formally revisited, or re-bid in 25 years? Any professional manager we know who let a contract run for 25 years without a formal review would – and should – be promptly sacked!

ISSUE THOSE TRANSFER AGENT REGULATIONS... ANOTHER TRULY IMPORTANT INITIATIVE THE SEC HAS BEEN DIDDLING WITH FOR ALMOST 10 YEARS NOW!

Here's yet another instance where the SEC staff has been unwilling to get its "hands" into something that requires a bit of brainpower - and maybe a *bit* of dirty-duty - and something that definitely requires a bit of hard work. Where else but at the SEC could staffers promise action "soon" for ten full years...and deliver NONE?

A CORRECTION:

In the article on Identity Theft in our 3rd Quarter issue, what were described as "losses" in the Wells Fargo shareowner services unit due to identity theft should have been described as "attempts."

"We arrived at the \$200,000 per quarter number based on the number of incidents that our 'red flag' systems and procedures identify as being likely attempts to initiate transactions by persons other than the real shareowners" a Wells Fargo spokesman explained. "In other words, our red-flag systems are preventing transactions from going through that have the potential to result in losses to shareholders at a rate of about \$200,000 per quarter."

The Optimizer stands by its estimates of \$2,000,000 per quarter in actual losses industry-wide, however, given the fact that many participants do not have "FACTA" or "FACTA-like" controls in place to identify potential identity theft early-on – and to the fact that many shareowners DO suffer losses each quarter, because they themselves do not identify the fact that someone has stolen their identity and made off with their property in a reasonable timeframe, or within the time-frame specified in the agreement that governs the account (witness the section of the article on Guy Wyser-Pratte) – and also because, as your editor knows from many personal experiences, financial intermediaries can and do experience *very significant losses* due to identity theft – sometimes to defend themselves in court, sometimes to settle cases, sometimes because they are deemed by a court to have been remiss - and sometimes to deal with the consequences of a serious "data breach" such as the lost or theft of sensitive records.

OUR TOP-TEN TIPS FOR PROOFREADING YOUR ANNUAL REPORT AND PROXY MATERIALS... PLUS FIVE NEW TIPS FOR TODAY'S WEB-BASED ENVIRONMENT

Wow, we noticed...it's been 10 years since we listed our top-ten proofreading tips...tips which several readers told us they had tacked to their walls.

And this year, with the mandatory requirement to post all such materials on the WEB, we realized that not just a new set of proofreading steps is needed, but a somewhat different level of diligence altogether, so we've added a few tips for proofreading web docs. Here are the lists:

1. *Never* rely on the same people who helped to draft, type and revise the material to do the final proofreading. Two inherent flaws of human nature to remember: We're always blind to our own faults...and doubly-alert to those of others.
2. *Never* proofread from a fax. Lower-case "c"s and "e"s, and "i"s and "l"s for example, can be virtually indistinguishable, and your eyes will always fool you into thinking all's OK.
3. *Always* double-check the proper spelling of every proper name – and *especially* the ones you think you know by heart. One little mistake can mean doing the job all over again, which can easily be a six-figure blooper these days.
4. *Always* have someone call every telephone number that appears in your AR: the transfer agent, IR department, consumer hotline, etc. Wrong numbers can make a lot of very important people very angry with you...for a very long time.

5. *Never* let spell-check lull you into complacency: it wouldn't, for example, have helped our late *alma pater*, Manny Hanny, avoid one of the most famous Annual Report Bloopers of all times; a reference to our "certified public accountants".

6. *Always* use shared software to share drafts of your documents across ALL the many internal and external drafting and reviewing teams...and make sure that everyone is using the same *version* of the software.

7. *Always* designate only one "captain" with the authority – and the ability to authorize and make changes in the final document, to assure that all 'edits' are agreed upon, and actually made. (Pray it ain't you).

8. *Always* allow time to let the material "get cold" for a few days, before you read it one last time. (We are *very sorry* to say that we ourselves have instantly spotted an error in every issue of the Optimizer we've put out to date...one that jumps right off the page at us...when we got our copy in the mail).

9. Try proofreading backwards, or without regard to what you're actually reading – looking, not 'scanning' for spelling errors and for commonly mistyped homonyms, like their and there, common mix-ups like lose and loose (two we *always* seem to miss, as several readers have reminded) and for mixed-up plurals and possessives.

10. *Above all*, always take your time!

FIVE NEW TIPS FOR DEALING WITH WEB POSTINGS

Most 'print-ready' files will need to be re-done and sometimes totally reformatted before they can be uploaded to the web, so don't assume your proofreading tasks were all taken care of beforehand. Be sure you will see *exactly* what will be on the web and how it will look before you give the final OK.

1. First, scan your document from beginning to end, just to check the fonts: We are constantly amazed by the number of times our layout-person's software - and also our printer's software too - will produce totally different-looking results than those we previously reviewed and approved.

2. Next, scan each chart, with the previous point in mind, to make sure that each one is in proper scale, and looks the way it's supposed to look.

3. Pay special attention to numbers, and to symbols and spacing: Here too, we are constantly amazed about the way different versions of the same software will produce totally unexpected results – or fail to print out a number or symbol altogether. (*Fractions* are an especially troublesome thing, we find. Another weird thing, the use of symbols, quotation marks, dashes (where sometimes different software will often confuse or try to 'self-correct' long and short ones), direses, or web-addresses will sometimes cause odd spaces and gaps to appear in the printer's version of the software. An odd and annoying quirk we discovered with our own magazine, whenever a period was followed by a capital A, the space we'd faithfully typed in after the period invariably disappeared!).

continued on page 10

FIVE NEW TIPS FOR DEALING WITH WEB POSTINGS...

continued from page 9

4. Do NOT try to proofread from a computer screen...unless, of course, you care nothing about your eyes, or about the ultimate results of your proofreading.

5. Make sure you receive a 'flight-tested' "print-ready" pdf file from your PRINTER to print out and proofread from. (A recent issue of the Optimizer, for example - that was created from a pdf created by our layout person - which we assumed was *foolproof* - printed out entirely in *italics* when read and run by the printer's software!)

AFTER THE FINANCIAL MELTDOWN WE'VE SEEN... THE DEATH, NEAR DEATH AND THE DEEP DILUTION THAT'S OCCURRED AT SO MANY OF OUR ONCE-MOST-ADMIRED COMPANIES... AND WITH NEWS OF FRESH DIVIDEND CUTS EVERY DAY... WE ASK... "IS BUY-AND-HOLD INVESTING DEAD???"

A cynic would say, "to ask a question like this is, in fact, to answer it." But, believe it or not, we say the answer is still, decidedly, a NO!

There's still nothing wrong with buying ... and holding...as long as you know three important "tricks"...(1) When the amounts you've accumulated, and the profits you've made say "sell some"...and (2) Where you discover that you have too many of your eggs in one basket (i.e. re-deploy some of the money to other stocks)...or (3) There are other, not so hard to figure "noises", or signs that say "sell most or all"

There is still, certainly, a lot to say about investing systematically, so that you buy MORE SHARES with the same money, when prices go down...as long as you read the preceding paragraph, that is.

We were, we must admit, almost on the other side of this argument...and almost ready to abandon our belief in the power of 'affinity investing' - and the value of attracting new individual investors too - as great tools

for public companies to use...and where we consider ourselves to be among the leading experts... until the Bernie Madoff mega-fraud provided perhaps the biggest example of the power of 'affinity investing' EVER! And those full page Charles Schwab ads, noting that they've added 300,000 new clients in the past month sure caught our eye too.

There are many important tricks of the trade to keep in mind, however, whether you are a public company, trying to decide what to do next with your Plan...or an individual investor, asking pretty much the same thing.

Our soon to be completed Benchmarking Program will give participants the answers they need, we guarantee. There's still a bit of time left to participate...and readers, for most of you, you really DO need to know how your individual investor profile looks now...how your own PLAN looks now...and what you need to be doing with it. Not knowing these answers is simply not smart in today's environment. Give us a call if you have Qs....

PEOPLE:

Jim Aramanda - whom many readers will know from his tenure as the CEO of **Mellon Bank's** shareholder services unit and/or for his stint with **ADP** - has been tapped as Chief executive Officer of **The Clearing House**, succeeding **Jeffrey Neubert**, who retired. "*Jim is ideally suited to lead this important institution, which plays a critical role in our industry*", said **Jamie Dimon**, Board Chairman, in a statement the Optimizer would heartily second. Formed 155 years ago, the Clearing House operates payment systems infrastructure and currently settles more than 40 million checks and electronic payments, with a value of \$2.4 trillion a day.

Kelly Beenen, the much loved head of the **Wells Fargo Shareowner Services** sales and marketing group died suddenly on Oct. 30, 2008 while on a business trip in NYC. Kelly was truly a joy to work with; totally unflappable, with a wonderfully wry sense of humor, always totally focused on the customer, and a consummate professional in every way. (Memorial donations may be made to the Kelly Beenen Endowment Fund at YMCA Camp du Nord, 2125 E. Hennepin Ave., Minneapolis, MN 55413)

QUOTES OF THE QUARTER...to ponder in the New Year

“Shame on members of the board for never asking any of us who loved this firm...” [About why they were leaving when it became clear that Stan O’Neil would rule the roost at Merrill Lynch]. *“Today is not the result of the subprime crisis or synthetic collateralized debt obligations. They are only the symptoms [of] unprincipled leadership and the failure of a board of directors to understand what was happening to this great company and its failure to take action soon enough.”*

Winthrop Smith, Jr., son of a Merrill Lynch founding partner, at the last Merrill Lynch stockholder meeting, 12/5/08

“The ‘de-regulation era’ that began in the 80s is over. Capitalism has forfeited the right to say ‘trust me’.” Ben Heinemann, author, professor and former General Counsel of GE, speaking at the Society’s NY/Fairfield Westchester & Hartford Chapters’ Fall Conference.

“The last six months have made it abundantly clear that voluntary regulation does not work.” SEC Chairman Chris Cox

“Numerous potential red flags” were flying at Bear Stearns, and it is *“indisputable that the SEC failed to carry out its mission”* SEC Inspector General David Kotz, in his post-mortem report on SEC oversight of Bear Stearns.

“Wall Street is often described in terms of bulls and bears, but really it is about sheep: the constant game to follow the leader by Wall Street firms copying their competitors’ moves.” Wall Street Journal columnist Heidi Miller, in the 11/5/08 WSJ.

“The financial crisis had changed what a weekend means. Casual Friday has evolved into the day discussions really begin to escalate, and Sunday has become the new Monday...” Wachtell Lipton Partner Ed Herlihy, in the 10/17 WSJ

A BELATED NEW YEAR’S GREETING...AND A THANK YOU... AND A CHALLENGE:

Greetings dear readers, and I want to extend my very best wishes for a happy, healthy, peaceful and PROSPEROUS New Year to you all.

And a very special *Thank You* too...to each of you...for continuing to read and comment on the Optimizer. Amazingly, almost half of all my subscribers have been subscribing since the Optimizer’s first year, in 1994!

The onrush of the holiday season – coupled with our burning need to get our annual Special Supplement done, and out the door beforehand – prevented us from sending each of you an individual greeting, as most years we try hard to do.

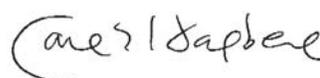
So this year, in lieu of cards and notes, we made a donation in YOUR HONOR to the Nyarkoa Foundation, which some of you will remember reading about here, I hope.

One of my long-term colleagues, Barry Shapiro, who many readers will know too, I bet, and his brother, founded this very small non-profit foundation to bring clean drinking water to a hospital in Ghana – where 15,000 patients, and nearby villagers were drinking, and washing with water that was scooped up from ditches. A totally new well was drilled, and a storage tank was installed for the hospital, and since then, two *new wells* have been re-drilled and refurbished in nearby villages so far. All of this has been

done at an incredibly low cost – in one case for a mere \$1000...for such a precious commodity that all of US take completely for granted. (Please take a few seconds to go to our website, www.optimizeronline.com and look under the tab “Doing Well By Doing Good” for pictures of the first well that was drilled).

Anyway, here’s a challenge for you...and one that I sincerely hope you’ll want to take: Barry and I will gladly match the *NEXT* \$2000 we can raise, to fix more wells, and also to provide some very basic education about sanitation, which the well-drillers discovered was sorely needed to keep the newly clean water clean and safe. A \$100 check represents less than most of us spend in a year on bottled water – even while all of us are able to enjoy some of the cleanest, safest and best tasting waters in the world for free! So as the New Year begins, if this little story about how much can be done with so little money gets to you – as it did to me...please send a check to Barry Shapiro, Treasurer, The Nyarkoa Foundation, 333 E. 43rd Street, Apt. 505, New York, NY 10017. All contributions are, of course, fully tax-deductible. And once again, have a happy, healthy and prosperous New Year,

Sincerely,



REGULATORY NOTES...and comment

ON THE HILL...

President-elect Obama nominated the estimable Mary Schapiro - a former SEC Commissioner, a former Chairman of both the NASD and the Commodities Futures Trading Commission and currently head of FINRA, the Financial Industry Regulatory Authority - to be the next SEC Chairman. A great choice we say, as noted above.

Obama's nominee to chair the Commodities Future Trading Commission, Gary Gensler, drew much more mixed reviews: As a former aide to Bill Clinton, he vigorously fought against the regulation of credit default swaps...but later, as an aide to then-senator Paul **Sarbanes**, he reportedly fought for tough regulation post-Enron. (A New York Times article (12/19/08) said that he and Sarbanes were so afraid that then SEC Chairman **Harvey Pitt** would try to dilute the regs, they excluded him from all deliberations).

AT THE SEC...

Mark-To-Market Rules will stay in effect, despite heavy lobbying from the financial services industry, where the marking-to-market of all their bad deals is exposing how bad-off they really are...albeit with a bit of tweaking, a bit of guidance, and, we think, a reasonable bit of 'wiggle room'.

Three Jeers for the SEC...courtesy of the *WSJ*, which pointed out that aside from not having a very strong grasp on the markets...or on the English language either...they decided to call their latest short-selling rule "an interim final temporary rule." We PRAY they will bone up on our simple primer on short sales that's in this issue...and issue a REAL RULE.

Financial Statement information will have to be in XBRL - as widely anticipated - for Large U.S. accelerated filers with public float of \$5B (about 500 companies) beginning with the fiscal period ending June 15, 2009 All other companies will be phased in by the fiscal period ending June 15, 2011.

Meanwhile, just as we went to press, another Cox-tinkertoys has hit the streets...the results of his much non-awaited study on what investors do with all those monster piles of SEC files, forms and disclosure documents... (Surprise! Basically nothing!)...plus his expert's advice on what to do next: Put everything into XBRL so it can be sliced, diced, collated, compared with anything and everything under the sun and somehow (*WE* don't see how, but hey, Cox is a visionary) made more "user-friendly". We're so happy that Cox was fiddling so fast and furiously on this stunningly important project, while those pesky markets were melting down! Yippee!

As expected, the SEC approved a DTC rule change that will eliminate the option to get a physical stock certificate in connection with a DTC withdrawal-by transfer-request. Investors who still wish to have a stock certificate can still get one, the DTC release points out - IF the issuer still permits it, "by taking the DRS statement to the transfer agent"...and most brokers will process such requests too...for \$100 or so.

AT THE EXCHANGES...

Good news for the NYSE..."Real Live Humans Will Return" to the stock exchange floor, a WSJ headline blurbed, as more than 300 former AMEX options traders will move in on Feb. 9th.

And good news from Nasaq-OMX...that an options clearinghouse has gone live...to which, we hope, will force a "hard settlement" of all the uncleared, unsettled interest-rate-swaps that are floating around in basically unknown amounts.

Mixed new in the listings race, with Automatic Data Processing, CME Group, Mylan Inc. and News Corp. defecting to the NASDAQ-OMX (Newscorp in exchange for more ad revenue from the NASDAQ Exchange, the NYSE twitted) and with **Monster Worldwide** and **Myriad Genetics** decamping for NYSE Euronext.

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ON THE SUPPLIER SCENE...

Alliance Advisors LLC - the annual meeting advisory and consulting company that's still less than two years old - sent us a nifty little notice toward year-end "Celebrating Our 100th Client As Proxy Management Consultants." Hearty congratulations to them – and our thanks too, for validating the prediction we made when they first announced their intentions to help issuers navigate the increasingly complicated world of proxy services, that they would rapidly become a smashing success.

Computershare Limited and **DG3** (Diversified Graphics Group, as we recently learned DG3 stood for...with the 'silent g' apparently standing for 'global') have joined forces to "provide a seamless, single source solution for shareholder communications from inception through delivery...regardless of the medium and in the most innovative way." We called **Bernie O'Connor**, President of **Computershare Communications Services** to get the skinny: "This partnership makes us much more of a full-service provider than ever before", he told us. "It allows us to present a unique service offering to our clients, who've been looking for ways to streamline the shareholder communications process. And it makes us the only global provider of such services in the world." (Computershare has operations in 17 countries, on five continents. DG3 also operates in strategically important markets worldwide, including Jersey City, London, Hong Kong, Tokyo, Sydney and Manila). "One of our big goals is to take the U.S. Postal Service out of the equation to the fullest extent possible, using technology and also by producing printed matter closer to the delivery point. Currently, for example, we are producing and distributing materials in the U.K. to roughly 50 thousand U.K.-based employee-shareholders of a U.S. Fortune 50 company." (Another thing that *we* at the *Optimizer* like about this global one-stop-shopping is that the pricing is lot more transparent to the buyer. It ticks us off that some transfer agents still seem to make more money marking up the 'out-of-pockets' - or the price of other goods and services procured by them - than they make on their transfer agency work!)

Ellen Philip Associates is re-marketing its very nifty **Loyalty Shares™** program, which we've written up here before. Just the ticket, we'd say, for cash-strapped and investor-strapped companies to build on the incredible power of brand loyalty in troublesome times, where trust - and loyalty - and more value for the buck - are so much needed. Go to www.loyaltyshares.com for more info.

"We are trying to unwind CGQ and replace it with something with more integrity", **Risk Metrics CEO Kayla Gillam** told attendees of the **Society's Issues Update program** in November... "We want to get out of

the 'our word is God business'" she added, leading to reports of a total CGQ demise that now, sadly, seem to be premature.

TALON - a company that hadn't been on our radar screen at all - recently started to pepper us with emails about a host of new products and services. So we called the sender, **Sam Berios** – yet another alum of the old, old **Shareholder Communications Company**, who's signed on with Talon as its marketing person for some background.

Two of their offerings caught our interest in particular: **SHARP**...their Shareholder Asset Reunification program provides customized software that allow issuers to inventory and properly manage ALL their abandoned property from a single, unified perspective. This is something we've been advising issuers to do for years: It's YOUR responsibility, issuers, and you really DO need to keep a sharp eye on exactly what's there, and what becomes of it. Another offering we particularly liked is their "**Data Cleansing and Normalization**" program. As Sam explained, a lot of the items returned as non-deliverable actually *have* a good address – but maybe the city is on the wrong line, where the USPS scanners couldn't find it, or the owner's name is "buried" behind a much longer "registration"...as is often the case with individual IRA or 401-k rollovers. The service will also provide telephone numbers, which is a quick and easy way to find "lost shareholders" and help them retrieve what's really theirs. They're also working on a "portal" that will let issuers readily view, and manage the overall proxy voting process – by giving them exactly the same kind of info that proxy solicitors usually have in their toolkits.

Registrar & Transfer Company's Tom Montrone - who had been earning an ownership stake in R&T and its sister company, **Commerce Printing**, over his 20 years there - has purchased both businesses in their entirety from long-term majority-owner **Bill Saeger, Sr.** "We have a very good business model, with very good people" Tom told us. "Also, the Commerce Printing capabilities are a great match with the kind of fast and responsive services our clients need. R&T has been privately held by a small group of hands-on, highly entrepreneurial owner-managers since 1899, so it's really 'business as usual'. We've been adding between 90 and 120 customers a year pretty steadily and we intend to continue in the same way we've always done" he told us. Heartiest congratulations to Tom, whom we've known since his days at **Irving Trust** and through his move to **Security Pacific** (remember *them?*) – and to his wife **Gail (Curtin)** – now a full-time mom, who many of our readers will remember from her Banknote Company days.

continued on page 14

ON THE SUPPLIER SCENE...

continued from page 13

Elsewhere on the T-A scene...*The pending 'big deal' we were expecting to go down toward year-end is still moving forward, our sources tell us...but now with the former 'second runner up'. Watch this space for more to come...*

And a scoop...just as we were set to go to press...In connection with its just-concluded acquisition of National City Corporation... PNC Corporation has announced that it will retain the much-admired National City stock transfer business. Systems, programs and people will remain in place, reporting now to the PNC Corporate Banking

Division...And, after the Annual Meeting, PNC will, of course, 'internalize' its own shareholder servicing business - a business it sold-off many years ago - where, small world, your editor, in an earlier career-phase, was the buyer. Aside from keeping a lot of National City clients happy, this move will expand their previously well-farmed 'foot-print' considerably. How many National City clients left, during all the *sturm und drang* surrounding their fate? Just one, according to group-leader **Marlene Jeanclerc** and that because of banking, rather than stock transfer servicing issues, she said.

**"ENGAGING INSTITUTIONAL INVESTORS":
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WATCHING THE WEB:

The upcoming annual meeting season will be the first one where every public company will have to post their annual meeting materials on the web. Google up your peer companies well ahead of time, we advise - and some of the LEADERS when it comes to web-postings - like Intel and American Express, or Prudential. Be on the watch for especially good and especially bad jobs of posting such materials to learn from before you post your own.

PLEASE spend a few of the fairly significant dollars you can save by using Notice and Access *intelligently* to assure that YOUR MATERIALS are *posted intelligently*, and in a way that respects your shareholders, and your other stakeholders too. NO EDGAR VERSIONS please (they do NOT meet SEC-mandated criteria for online postings) - and make sure you give shareholders READILY SEARCHABLE VERSIONS...or they'll be signing up for paper versions, we guarantee!

Another clever phishing scam aimed at business people is making the rounds; Emailed notices captioned as being from the Internal Revenue Service, advising that the "Stimulus Payment form" is ready for downloading and submission. Sadly, we think a lot of over-optimistic small-business owners, or their not-too-savvy bill-paying staff will be "taken" here.