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VIA FACSIMILE  
573-526-3124

Mr. David B. Cosgrove  
Securities Commissioner  
600 West Main Street  
Jefferson City, MO 65101

Dear Mr. Cosgrove:

I am writing to express my very serious concern about a significant abuse in the securities industry. This abuse affects investors large and small, and is carried out by the securities industry with the full complicity of the U.S. Securities and Exchange Commission (SEC), the very agency charged with protecting investors. I am referring to the rampant problem of failing to deliver securities sold, frequently caused by the practice of naked short selling of securities. In fact, you are probably aware of this problem, since NASAA conducted a symposium on this subject on November 30.

I am concerned because I, and millions of other individual investors, are harmed in several ways by the naked short selling of securities. First, naked short selling allows hedge funds (and others) to artificially depress the prices of publicly-traded securities by selling them short without having to meet the requirement of first borrowing the subject securities. Thus, a virtually limitless supply of shares can be dumped upon the market to bring down prices. This harms not only investors in the subject security, but also harms the issuer of such security by making it very costly, if not impossible, to raise additional capital in the public markets. In addition, the practice of naked short selling has the very real effect of creating "counterfeit" securities, which appear to have voting rights, but in fact do not.

While the practice of failing to deliver securities sold has been illegal under federal law since 1934, the practice has nevertheless continued since that time without much more than lip service from the SEC regarding enforcement of the law. Many investors applauded when, in late 2004 the SEC adopted Regulation SHO regarding failure to deliver securities sold. This regulation, which became effective on January 1, 2005, was supposed to put an end to this practice. It allows the SEC to force buy-ins of securities that have failed to deliver. However, the SEC (by its own admission) has not enforced Regulation SHO, and does not appear to have any interest in enforcing it. In fact, the

SEC appears to be more interested in protecting the securities industry than in protecting individual investors. This is clearly contrary to the intent of Congress.

Make no mistake, the problem is huge in terms of dollars. While the SEC refuses to publish the number of shares failed to deliver for each company appearing on the Regulation SHO list, information gleaned from various sources indicates that failures to deliver are valued in the billions of dollars. This means billions of dollars of securities, purchased and paid for, which have not been delivered to the buyers. Of course, the brokers involved have collected commissions on these fraudulent sales. Clearly, the SEC does not want the public to know the magnitude of the problem, because this knowledge would severely damage any faith the investing public has in the integrity of U.S. securities markets.

I am writing you today because I am frustrated by the lack of enforcement action by the SEC, as well as the apparent lack of interest by Congress in providing oversight of this agency, which they created. I am reminded of the recent trading abuses in the mutual fund industry, which were allowed to continue totally unchecked by the SEC. These abuses were finally corrected when various state attorneys general took action directly against the offending mutual fund managers, while the SEC, whose duty it is to regulate these mutual funds, sat idly by. I see a strong parallel between the mutual fund abuses and the current problem of failure to deliver, caused by illegal naked short selling. In both cases the SEC has abrogated its duty to enforce the law as it is clearly written. In both cases, I fear, it will take action by the states to bring the problems to light and rectify them.

I look to you, as Missouri's top securities regulator, to address this problem in collaboration with other state securities regulators. The recent NASAA symposium on the problem of failure to deliver securities sold was a good first step. Much more needs to be done. The investing public needs to be made aware of the problem. Pressure must be brought to bear upon securities dealers who aid and abet those who sell securities without subsequently making delivery. Legal enforcement action may be required. It is clear to me that investors cannot count on the SEC for enforcement, so we must turn to our state securities regulators for help. Please do not let us down.

Very truly yours,

Ross C. Burlemann