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Now What's Going On

RAKOFF V SEC –III

(Mark This One is For You)

As much as New York hates my guts and has done everything in their power to silence me, the twist of fate has developed where I now have largest readership in the financial industry on a global scale. So it seems that even my arch-enemies tune in just to see what I and pointing out next. Exposing this major confrontation between Judge Rakoff and the SEC and telling people to vote with their own money, has actually created a bit of a stir. Now even Bloomberg News has been forced to come out of the closet – no small task for a media organization that is part of the well-entrenched New York establishment.

> *When Wall Street Sins, SEC Needs to Extract Confessions: View*
> *2012-01-13 00:00:00.6 GMT*
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> *By the Editors*
> *Jan. 13 (Bloomberg) -- The Securities and Exchange Commission last week said it will no longer allow individuals or companies, when settling civil lawsuits, to "neither admit nor deny" wrongdoing if they have been separately convicted in a parallel criminal case. At first glance, it seems the SEC is doing something highly commendable. But there is much less than meets the eye here. The SEC should make further changes to put real meaning behind its attempt at reform, which affects only a small fraction of SEC cases.*
> *The SEC's enforcement chief, Robert Khuzami, says the change "eliminates language that may be construed as inconsistent with admissions or findings that have already been made in criminal cases." This makes sense, since criminal cases require a higher standard of proof than civil ones. In short, if you're guilty of the crime, you're often guilty of parallel civil violations.*

Internal discussions on revising the settlement language have been going on for months, the SEC said. We have to wonder whether the commission didn't see the contradiction of its policy after Wells Fargo & Co. last month admitted to Justice Department charges of municipal-bond bid rigging by Wachovia, which Wells Fargo acquired in 2008. As in so many other cases, Wells Fargo skirted an admission of wrongdoing in a matching SEC suit.

The bigger question is why the SEC ever adopted such a stance and let it remain in place since the 1970s. One answer might be that the SEC has sometimes forgotten that its mission is to protect investors, not the industry it oversees.

Taking Heat

The SEC has been taking heat more generally for its longstanding policy of allowing settlements that let the accused pay a fine and go on their merry way. The SEC makes defendants promise never again to violate the law, but rarely acts when its "sin no more" pledge is broken.

These settlements serve the interests of the SEC and those it sues. The agency avoids the expense and risk of going to trial. Same for the defendant, which sees any resulting fine as a cost of doing business, and gains something valuable in the process: By avoiding an admission of guilt, it deprives anyone else of ammunition for use in private lawsuits.

The practice of negotiating neither-admit-nor-deny deals has come in for scrutiny, thanks to U.S. District Court Judge Jed Rakoff. In November, Rakoff put a hold on a $285 million SEC agreement to resolve a fraud lawsuit against a unit of Citigroup Inc. The suit accused Citigroup of assembling in 2007 a security, backed by subprime mortgages, that was designed to blow up. It worked as planned, the suit said, costing investors $700 million and earning Citigroup a $160 million profit.

Rakoff said the Citigroup agreement didn't contain enough information for him to decide if it was reasonable and in the public interest. The SEC, insisting the deal was fine, said it wasn't even up to the judge to determine if a settlement was in the public's interest. The commission has appealed Rakoff's decision.

In defending its settlement practices, the SEC does make a valid point: Without the option of letting a defendant avoid admitting wrongdoing, the agency's bargaining power would evaporate. What defendant, after all, would even bother to negotiate, knowing that it might have to hand potential litigants the goods to build a strong lawsuit? What's more, the neither-admit-nor-deny settlement format is used, though not as often, by other enforcement agencies.

But if the SEC wants to restore legitimacy to these types of settlements, it should consider a couple of modifications.

First, at a minimum, the SEC should extract an acknowledgement of mistakes from defendants -- leaving aside the question of whether those errors were honest ones or not. This would still preserve a defendant's ability to deny wrongdoing.

Getting an Incomplete

The SEC managed to wrest such a concession from Goldman Sachs Group Inc., which two years ago was accused by the agency of selling a self-destructing security, much like the one Citigroup peddled. In settling and agreeing to pay a $535 million fine, Goldman Sachs conceded that the marketing materials for the security sale were incomplete. The court approved that settlement without hesitation.

The agency also should either drop the requirement that a defendant promise not to violate securities laws again, or get serious about enforcing it. The latter is preferable. The Citigroup unit in the current litigation is a repeat offender; five times since 2003 it has settled SEC allegations of securities fraud. Not once has the SEC sought to hold Citigroup in contempt of court for breaching prior agreements.

The SEC does need tools to entice those accused of breaking securities laws into settling. Litigating every case just isn't practical. But the agency should make changes to avoid justifiable perceptions that it gives away too much when it strikes a deal.

--Editors: James Greiff, Paula Dwyer.

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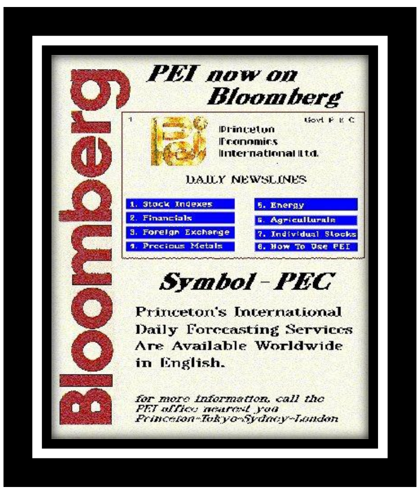

We use to put our reports on Bloomberg, I would do interviews with one of the best journalists ever - Mark Pittman - who was at Bloomberg. Mark knew Princeton Economics did not manage money for the Japanese but were simply buying portfolios. So he knew the truth and when the case began against Princeton Economics, Mark told me not to worry; the press would not allow them to do this. Bloomberg quickly removed Mark from writing about the case as soon as I began to expose that the bank was illegally trading in our accounts just as we see at MF Global. The same thing was done to Gretchen Morgenson by the New York Times. The powers that be in New York silenced the press to support the government and the New York banks. Isabel Ring of the New York Post interviewed me about Republic illegally trading in our accounts. That story never appeared. So when I say the management of the New York press is not trustworthy, I have firsthand experience. I believe Bloomberg, who had an inside track on the story, killed it deliberately to support New York. When O'Melveny & Myers & its Tancred Schiavoni froze my mother's social security funds denying her medical care, Mark was absolutely beside himself. Schiavoni tried to blame the bank. But the bank gave my mother Schiavoni's direct phone number. Mark saved my mother's life for he was ready to expose Schiavoni making him back off.

It is a sad day when the Freedom of the Press becomes corrupted. To have been told by Bloomberg they will not "relitigate" a case when in fact they have refused to ever print our side of the story, shows how untrustworthy the press has become. To me, Bloomberg has disgraced everything the Constitution stood for no less the memory of Mark who was a champion of justice. Mark – This one is for you! It's your kind-of story!

Tancred Schiavoni
O'Melveny & Myers LLP's

Mark Pittman, Reporter Who Challenged Fed Secrecy, Dies at 52

By Bob Ivry - November 30, 2009 00:01 EST

Bloomberg News Reporter Mark Pittman

Mark Pittman and wife Laura Fahrenthold

Bloomberg News reporter Mark Pittman

Nov. 30 (Bloomberg) -- Mark Pittman, the award-winning reporter whose fight to make the Federal Reserve more accountable to taxpayers led Bloomberg News to sue the central bank and win, died Nov. 25 in Yonkers, New York. He was 52. Bloomberg's Erik Schatzker reports.

Nov. 30 (Bloomberg) -- Mark Pittman, the award-winning reporter whose fight to make the Federal Reserve more accountable to taxpayers led Bloomberg News to sue the central bank and win, died Nov. 25 in Yonkers, New York. He was 52.

Pittman suffered from heart-related illnesses. The precise cause of death wasn't known, said his friend William Karesh, vice president of the Global Health Program at the Bronx, New York-based Wildlife Conservation Society.

"He was one of the great financial journalists of our time," saidJoseph Stiglitz, a professor at Columbia University in New York and the winner of the 2001 Nobel Prize for economics. "His death is shocking."

A former police-beat reporter who joined Bloomberg News in 1997, Pittman wrote stories in 2007 predicting the collapse of the banking system. That year, he won the Gerald Loeb Award from the UCLA Anderson School of Management, the highest accolade in financial journalism, for "Wall Street's Faustian Bargain," a series of articles on the breakdown of the U.S. mortgage industry.

Pittman's push to open the Fed to more scrutiny resulted in an Aug. 24 victory in Manhattan Federal Court affirming the public's right to know about the central bank's more than $2 trillion in assistance to financial firms. He drew the attention of filmmakers Leslie and Andrew Cockburn, who featured him prominently in their documentary about subprime mortgages,"American Casino," which was shown at New York City's Tribeca Film Festival in May.

‘One Reporter’

“Who sues the Fed? One reporter on the planet,” said Emma Moody, a Wall Street Journal editor who worked with Pittman at Bloomberg News. “The more complex the issue, the more he wanted to dig into it. Years ago, he forced us to learn what a credit- default swap was. He dragged us kicking and screaming.”
James Mark Pittman was born Oct. 25, 1957, in Kansas City, Kansas. He played linebacker on his high school football team and took engineering classes at the University of Kansas in Lawrence before graduating with a degree in journalism in 1981. He was married soon after to Vicky Holloman and had a daughter, Maggie, in 1983. The marriage ended in divorce.

Pittman’s first reporting job, covering the local police department for the Coffeyville Journal in southern Kansas, paid so little he took a part-time job as a ranch hand across the Oklahoma border in Lenapah, according to an interview he gave to Ryan Chittum for the Columbia Journalism Review’s The Audit, a business press watchdog.
‘Huge Personality’

“What a funny guy -- huge personality,” Chittum said in an e-mail. “Mark was my favorite reporter working. In a time when too much journalism is timid or co-opted, Mark personified the whole ‘afflict the comfortable’ tenet of the business. Mark’s passing is a huge loss for journalism at a time when we can least afford it.”

Pittman spent a year in Rochester, New York, with the Democrat & Chronicle newspaper and 12 years at the Times Herald- Record in Middletown, New York, where he met his second wife, Laura Fahrenthold-Pittman, in 1995.

“All I know is we fell in love the moment we met,” Fahrenthold-Pittman said in a Nov. 27 interview. “We moved in together a week later. He was as serious about his family life as he was about work. Mark did nothing in a small way.”

Pittman joined Bloomberg News in 1997. In 2007, he was writing about the process of banks bundling home loans into securities for sale to investors when subprime borrowers, who have bad or limited credit histories, began missing payments on their mortgages at a faster pace.

S&P, Moody’s

His June 29, 2007, article, headlined “S&P, Moody’s Hide Rising Risk on $200 Billion of Mortgage Bonds,” was excoriated at the time by Portfolio.com for “trying to play ‘gotcha’ with the ratings agencies.”

“And that really isn’t helpful,” said the posting.

Pittman’s story proved prescient. So did his reports on U.S. banks exporting toxic mortgages overseas, on Treasury Secretary Henry M. Paulson’s role in creating those troubled assets while he was chief executive officer of Goldman Sachs Group Inc. and on the U.S. bailout of American International Group Inc.
“He’s been on this crisis since before the crisis,” said Gretchen Morgenson, the Pulitzer Prize-winning financial columnist for the New York Times. “He was the best at burrowing into the most complex securities Wall Street could come up with and explaining the implications of them to readers of all levels of sophistication. His investigative work during the crisis set the standard for other reporters everywhere. He was a giant.”

'Fearless, Trusted'

In the "Faustian Bargain" series, Pittman explained how 5 percent of U.S. mortgage borrowers missing monthly payments could lead to a freeze in lending throughout the world.

"Mark Pittman proved to be the most fearless, most trusted reporter on the most important beat during the 12 years he wrote about credit markets, corporate finance and the Federal Reserve at Bloomberg News," said Bloomberg Editor-in-Chief Matthew Winkler. "His colleagues will miss his laughter and generous sense of mission. Bloomberg readers were rewarded by his many achievements, culminating with a federal court ruling that validated his search for records of taxpayer-financed policies withheld from the public and the Gerald Loeb Award."
Public policy would be more effective if reporters, lawmakers and citizens understood how the financial system worked and why the crisis happened, Pittman said in the Feb. 27, 2009, interview with Chittum.

"Hopefully, we will be able to inform the people enough to know how badly we're getting screwed," he said with a laugh. "We need to know how to prevent it from happening again, and we need to know who did it."

Booming Laugh, Whisky

Standing 6 feet 4 inches (1.93 meters) with a booming laugh, a loud telephone voice and a taste for whisky, Pittman made lifelong friends on Wall Street, on Capitol Hill, in journalism circles and in the artistic community after he and his wife opened an art gallery in Yonkers in 2005.

"He had an unerring sense of the big story," said Representative Alan Grayson, a Florida Democrat on the House Financial Services Committee, in an interview.

"I always learned something new when I spoke with Mark," said Representative Scott Garrett, a New Jersey Republican on the same committee. "He was dogged in pursuit of the truth."
In the documentary "American Casino," the title of which comes from an expression Pittman uses in the movie, the filmmakers profile subprime borrowers who are losing their homes, mortgage brokers who made loans they knew their customers could never repay and bankers and ratings analysts whose companies profited from the housing boom.

Celebrating Life

Pittman provides an anchor for the narrative, at one point searching the Bloomberg terminal and finding inside a security underwritten by Goldman Sachs the mortgage of a Baltimore teacher going through foreclosure.

"He was a wonderful friend, a seeker of truth, a fighter for right, a proud family man, a big and jovial hand, a lover of food, drink and celebration of life," said Joshua Rosner, managing director of Graham Fisher & Co., a consulting and analysis firm in New York. "This is a personal loss, a professional loss and a societal loss. He is truly irreplaceable."

Mark – You Are Sadly Missed
At A Time When We Need You The Most
It is All Coming True – Wish You Were Here