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February 4, 2004

Honorable William H. Donaldson
Securities and Exchange Commission
450 Fifth Street
Washington, D.C. 20549-0609

Re: File No. S7-23-03 - Short Sales

Dear Chairman Donaldson:

The December 29, 1999 letter from Cell Pathways, Inc. noted that short sale abuses were depriving individual investors of essential investor protection and were making it more expensive for issuers to raise capital. The letter proposed that "all short sales be instantly reported on a universal Internet reporting system which simultaneously records the net long position of each account participating in a short sale and flags naked shorting, down-tick shorting and other bear raid shorting." Regulatory incorporation of this approach would have the benefits listed below.

1. **Naked Shorting.** Immediate transparent Internet reporting of properly "marked" transactions would facilitate SEC and SRO enforcement and would discourage abuse.

2. **"Pricing Efficiency."** To the extent that the "pricing efficiency" rationalization[1] retains its current cachet, immediate transparent Internet reporting of each transaction properly marked as "long," "short" or "short exempt" in accordance with proposed Rule 201 would confer a material benefit: it would facilitate accurate analysis of whether short selling has moderated a market rise, aggravated a market decline or otherwise affected pricing.

3. **The Current Disenfranchisement Scandal.** Under current practice, each DTC participant instructs ADP to issue voting instruction forms equal in number to the aggregate of long and short positions within that participant's accounts – an aggregate number which substantially exceeds the number of shares actually held by such DTC participant. Over-voting does not occur because votes in excess of each DTC participant's actual holdings are not counted. Thus, early voters succeed in having their votes counted, while later voters risk disenfranchisement. Immediate reporting of properly marked transactions would properly allocate voting rights and put an end to this current *Skandal* and its disenfranchising effects.[2]

Respectfully submitted,

Richard H. Troy

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[1] The grinding rationalism of the West indulges artificial constructs to create, deny or otherwise substitute for reality – often in an attempt to benefit or burden an interest group. The letter of December 29, 1999 noted the following. Short selling multiplies shares and depreciates their value. Multiplication of $20 bills is not allowed. Markets in options, futures and derivatives provide ample efficient pricing sentiment. Short selling contributes directly to *inefficient* pricing by artificially inflating the number of shares available. The artificially depressing/stimulating effects of short selling aggravate market moves, harming stockholders. Would you permit third parties to sell your house short? Experience under the 18th Amendment counsels regulation rather than abolition of powerfully supported popular activity. The "efficient pricing" rationalization should not weigh heavily in the balance of the current regulatory proposals.

[2] Other commentators are studying and/or addressing: allocation of voting rights among borrowers and lenders of stock; documentation of the consent of stock lenders to losing their voting rights; and the effects of improper allocation on annual voting, merger voting, tender offers and other special situations.