

Press Release

Washington Legal Foundation
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Washington, D.C. 20036

FOR IMMEDIATE RELEASE

January 21, 2003

WLF ANNOUNCES NEW INVESTOR PROTECTION PROGRAM: Files Complaint With SEC Urging Investigation Of Short Selling

Today, the Washington Legal Foundation (WLF) launched its new Investor Protection Program by filing a complaint with the Securities and Exchange Commission (SEC). WLF's complaint is the first in a series of legal actions, expert legal studies, and public educational/advertising campaigns that its Investor Protection Program will undertake.

WLF's complaint requests that the Commission and its enforcement staff fully investigate all the facts and circumstances surrounding the filing of a multi-million dollar class action lawsuit in Florida (*Mann v. Eckerd Drug Stores*), and short-selling in the stock of J.C. Penney Co., which owns the Eckerd chain. WLF is also calling upon the SEC to subpoena records and depose witnesses under penalty of perjury to determine whether there were any violation of federal securities laws or regulations. If any violations are found, WLF demands that the SEC prosecute the responsible parties to the fullest extent of the law.

WLF's complaint is based on a January 7, 2003, *Wall Street Journal* article written by reporters David Armstrong and Ann Zimmerman, that described events preceding the filing of a class action lawsuit against Eckerd, accusing the drugstore chain of overcharging customers for prescription drugs. The *Journal* reported on the conflicting accounts about pre-filing communications between those involved in the lawsuit, including plaintiff's attorneys, analysts, and short-selling trading firms. According to the *Journal*, rumors about the impending suit and its subsequent filing drove the price of the stock down some 32 percent, thereby harming shareholders, but resulting in handsome profits to those who had sold the stock short. Eckerd denied the overpricing charges, and according to the *Journal*, an investigation by the Florida Attorney General's office concluded that Eckerd had not overcharged its customers.

The lawsuit's original lead plaintiff, a 77-year old widow, denies that she authorized the filing of the suit on her behalf.

"The SEC is concentrating its regulatory and investigative resources on the conduct of corporate employees, financial service companies, and accountants, but they are ignoring the dealings of plaintiffs' lawyers with financial analysts and short-sellers," said Daniel Popeo, WLF's Chairman and General Counsel upon filing the complaint with the SEC. "This is an important public interest concern. The SEC should also focus on the potential for market manipulation by the lucrative class action industry. Unfortunately, the plaintiffs' bar has leveraged the power of America's unpredictable civil justice system to play the financial community like a piano," Popeo added.

In addition to its complaint to the SEC, WLF, as part of its Investor Protection Program, is conducting a national public education/advertising campaign focusing on the damage inflicted on consumers and investors by abusive class actions initiated by plaintiffs' attorneys. In recent years, WLF has participated in several multi-million dollar class action cases on behalf of objecting class members. In those cases, WLF opposed excessive attorney fee awards, particularly where class members would obtain little or nothing in the form of compensation. WLF's Investor Protection Program will target more of these cases for WLF participation by increasing public awareness of class action abuses. "It's about time that the plaintiffs' bar is held accountable for abusive class actions that seem to be designed more to generate excessive attorney fee awards than to compensate the "clients" in those cases," said Paul Kamenar, WLF's Senior Executive Counsel.

The goals of WLF's Investor Protection Program are comprehensive: to protect the stock markets from manipulation; to protect employees, consumers, pensioners, and investors from stock losses caused by abusive litigation practices; to encourage Congressional and regulatory oversight of the conduct of the plaintiffs' bar with the securities industry; and to restore investor confidence in the financial markets through regulatory and judicial reform measures.

WLF is a nonprofit public interest law and policy center based in Washington, D.C., with supporters nationwide. Since its founding 25 years ago, WLF has become the nation's preeminent center for public interest law, advocating free-enterprise principles, responsible government, property rights, a strong national security and defense, and a balanced civil and criminal justice system, all through WLF's Litigation Department, Legal Studies Division, and Civic Communications Program.

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