The Miscreants’ Ball
Market Participant Volume
Volume reported to marketplace vs. volume in market participation reports
The Miscreants’ Ball

The Investing Public

hedge fund miscreants

- foreign exchanges
- Deposit Trust & Clearance Corporation
The Miscreants’ Ball

The Investing Public

- financial media
- stock “research” firms
- paid message board posters
- plaintiffs’ attorneys

hedge fund miscreants

foreign exchanges

Deposit Trust & Clearance Corporation
O’brien’s October ’04 predictions

- Herb, Barrons, WSJ, Camelhump, Liz MacDonald would call to write nasty stories
- Ostk would appear on numerous foreign exchanges
- Reg SHO List
- Federal investigation
O’Brien’s October ’04 predictions

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- Ostk would appear on numerous foreign exchanges
- Reg SHO List
- Federal investigation

- All called within 3 days, published hatchet jobs within a week
- Stuttgart, Munich, Frankfurt, Berlin, Australia, XETRA
- January 27, 2005
- ?
The Not Necessarily Miscreants’ Ball
Connections among hedge funds, journalists, investors, & regs

Miscreant hedge funds

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA

deposit trust & clearance corporation
Connections among hedge funds, journalists, investors, & regs

- David Rocker
- Leon Black
- Cohodes
- David Einhorn
- Jim Caruthers

Miscreant hedge funds

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA

Deposit trust & clearance corporation
Connections among hedge funds, journalists, investors, & regs

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA

Deposit trust & clearance corporation

David Rocker
Cohodes
Leon Black
Feshbach
Jim Caruthers
David Einhorn

Miscreant hedge funds
Connections among hedge funds, journalists, investors, & regs

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA

deposit trust & clearance corporation

kevin ingram
milberg weiss & associated firms
Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA

david rocker
cohodes
leon black
Feshbach
jim caruthers

miscreant hedge funds
david einhorn
Milberg Weiss: A prescient law firm

- **Publicly Traded Companies Allegedly Shorted by Rocker Partners LP**
  - Novastar Financial, Inc. (1) 4/19/05 4/13/04
  - Taser International, Inc. (2) 1/6/05 1/29/05
  - Capital One Financial Corp. (3) 7/18/02 7/15/02
  - Krispy Kreme Doughnuts, Inc. (4) 7/28/04 5/12/04
  - Nvidia Corp. (5) 2/14/02 2/19/02
  - Pre-Paid Legal Services, Inc. (6) 3/16/01 1/16/01
  - Allied Capital Corp. (1) 6/23/04 5/23/02
  - Cree, Inc. (7) 7/9/03 6/23/03
  - aaiPharma, Inc. (2) 2/20/04
  - C-Cube Microsystems, Inc. (6) 6/30/00

- **Published Allegedly Negative News Articles**
  - TheStreet.com

- **Companies Under Investigation by**
  - Class Action Lawsuits Brought Against Companies by Milberg Weiss and Associated Firms
Connections among hedge funds, journalists, investors, & regs

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA

deposit trust & clearance corporation

helmsman
compass

kevin ingram
milberg weiss & associated firms

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA

miscreant hedge funds

David Rocker
david einhorn
cohodes
Feshbach
leon black
jim caruthers
Connections among hedge funds, journalists, investors, & regs

jim cramer (thestreet.com)

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA
deposit trust & clearance corporation

helmsman
compass

kevin ingram
milberg weiss & associated firms

David rocke
Cohodes
Leon black
Feshbach
Jim caruthers

Miscreant hedge funds
Connections among hedge funds, journalists, investors, & regs

herb greenberg (cbs marketwatch)

jeff mathews (blog, RAM partners)

jesse eisenger (wall street journal)

jim cramer (thestreet.com)

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA

deposit trust & clearance corporation

Feshbach

david rocke

david einhorn

david einhorn

coleodes

leon black

kevin ingram

milberg weiss & associated firms

helmsman

compass

jim caruthers

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA
Jeff's (surprisingly smooth) recruitment

-----Original Message-----
From: Jeff Matthews [mailto:jeff@rampartners.com]
Sent: Monday, July 18, 2005 10:34 AM
To: kath@alumni.nd.edu
Subject: Overstock questions

Dear Kathryn:
You may know me via my blog (JeffMatthewsIsNotMakingThisUp) in which I've made some observations about
Overstock and the apparent inconsistencies in many of the forecasts and projections given by Patrick Byrne.

Most of these inconsistencies have been ignored by most of Wall Street, for obvious reasons, but are available for
anyone to see in the transcripts of the conference calls-- and I have a long-standing dislike of CEOs who mislead
investors, especially the small investors of which Patrick Byrne claims to be a champion.

I know you have left the company and I wanted to speak with you about what is going on there. I trust that as Treasurer
you were privy to the issues that an outside observer such as myself can only guess at, but that working under a control
freak like Byrne you had very little actual authority or responsibility for the nonesense that went on.

Anything we talk about would be for background purposes only and would never appear, in any way/shape/form, in my
blog.

Why should you bother?

I have seen, in the course of 25 years on Wall Street, many excellent companies and many mediocre companies, and I
have seen more speculative companies with promising business models, like Overstock, in which a CEO more
concerned with his image and his public standing than to the business itself does great damage to the business at the
expensive of small investors.

My observation is that many good people that do not have the ability to control or alter the situation get dragged down in
the aftermath--and your public role at Overstock was limited to setting up and introducing conference calls for Dr. Byrne,
not in perpetuating the hype.

My direct, confidential telephone number is 203-913-6684.
Sincerely yours;
Jeff Matthews
Connections among hedge funds, journalists, investors, & regs

herb greenberg (cbs marketwatch)
jeff mathews (blog, RAM partners)
jesse eisenger (wall street journal)

jim cramer (thestreet.com)
Camelback/Gradient (donn vickrey, carr bettis)

helmsman
compass

kevin ingram
milberg weiss & associated firms

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA

Miscreant hedge funds

david rocker
david einhorn
coholes
Leon black
Feshbach
Jim caruthers

deposit trust & clearance corporation
Connections among hedge funds, journalists, investors, & regs

herb greenberg (cbs marketwatch) → jeff mathews (blog, RAM partners) → jesse eisenger (wall street journal)

jim cramer (thestreet.com)

Camelback/Gradient (donn vickrey, carr bettis)

helmsman
compass

kevin ingram

milberg weiss & associated firms

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA

miscreant hedge funds

david rocker

david einhorn

cohodes

leon black

Feshbach

jim caruthers

deposit trust & clearance corporation
Connections among hedge funds, journalists, investors, & regs

- Herb Greenberg (CBS MarketWatch)
- Jeff Mathews (blog, RAM Partners)
- Jesse Eisenger (Wall Street Journal)
- Elizabeth Macdonald (Forbes)
- Carol Remond (Dow Jones)
- Jesse Cramer (TheStreet.com)
- Herb Greenberg (CBS MarketWatch)
- Jesse Eisenger (Wall Street Journal)
- David Einhorn (Cohodes)
- Leon Black (Helmsman)
- David Rocker (Camelback/Gradient)
- Kevin Ingram (Milberg Weiss & Associated Firms)
- Jim Caruthers (Feshbach)
- Leon Black (Helmsman)
- David Einhorn (Cohodes)
- David Rocker (Camelback/Gradient)
- Kevin Ingram (Milberg Weiss & Associated Firms)
- Miscreant hedge funds

Locations:
- Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA
- Deposit trust & clearance corporation

Companies:
- Camelback/Gradient (Donn Vickrey, Carr Bettis)
Connections among hedge funds, journalists, investors, & regs

Herb Greenberg (CBS Marketwatch)

Jeff Mathews (blog, RAM Partners)

Jesse Eisenger (Wall Street Journal)

Elizabeth Macdonald (Forbes)

Carol Remond (Dow Jones)

Barron's (Cheryl Strauss Einhorn)

Jim Cramer (TheStreet.com)

Camelback/Gradient (Donn Vickrey, Carr Bettis)

Kroll

Helmsman

Compass

Kevin Ingram

Milberg Weiss & Associated Firms

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA

David Rocker

Cohodes

Leon Black

David Einhorn

Feshbach

Jim Caruthers

Miscreant Hedge Funds

Deposit Trust & Clearance Corporation

Spitzer
Connections among hedge funds, journalists, investors, & regs

herb greenberg (cbs marketwatch)
jeff mathews (blog, RAM partners)
jesse eisenger (wall street journal)
elizabeth macdonald (forbes)
carol remond (dow jones)
barron's (cheryl strauss einhorn)

jim cramer (thestreet.com)

Spitzer
kroll

helmsman
compass
Camelback/Gradient (donn vickrey, carr bettis)

SEC

david rocker
david einhorn

leone black
Feshbach

jim caruthers

Miscreant hedge funds

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA

deposit trust & clearance corporation

milberg weiss & associated firms
kevin ingram
Connections among hedge funds, journalists, investors, & regs

herb greenberg (cbs marketwatch)
jeff mathews (blog, RAM partners)
jesse eisenger (wall street journal)
elizabeth macdonald (forbes)
carol remond (dow Jones)
barron's (cheryl strauss einhorn)

kroll

Camelback/Gradient (donn vickrey, carr bettis)

kroll

SEC

DOJ

politically connected investors (texas, chicago)

deposit trust & clearance corporation

Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA

Miscreant hedge funds

david rocker
david einhorn
leon black
feshbach
jim caruthers

helmsman
compass

kevin ingram
milberg weiss & associated firms

jim cramer (thestreet.com)
Connections among hedge funds, journalists, investors, & regs

- Jim Cramer (TheStreet.com)
- Jesse Eisenger (Wall Street Journal)
- Elizabeth Macdonald (Forbes)
- Carol Remond (Dow Jones)
- Barron's (Cheryl Strauss Einhorn)
- Herb Greenberg (CBS MarketWatch)
- Jeff Mathews (Blog, RAM Partners)
- Elizabeth Macdonald (Forbes)
- Carrie Mathews (Barron's)
- Jesse Eisenger (Wall Street Journal)
- Herb Greenberg (CBS MarketWatch)
- Jesse Eisenger (Wall Street Journal)
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- Herb Greenberg (CBS MarketWatch)
- Jeff Mathews (Blog, RAM Partners)
- Helmsman
- Compass
- Camelback/Gradient (Donn Vickrey, Carr Bettis)
- David Rocker
- David Einhorn
- Leon Black
- Feshbach
- Jim Caruthers
- Miscreant hedge funds
- Bottom-feeder (final owner)
- SEC
- DOJ
- Spitzer
- Kroll
- deposit trust & clearance corporation
- politically connected investors (texas, chicago)
- Stuttgart, Berlin, Frankfurt, Munich, Australia, XETRA
-数码证券存管与清算公司
- 与政治联系的投资者 (德克萨斯州, 芝加哥)
Short Sellers

David Einhorn

David Rocker
Short Sellers

David Rocker

David Einhorn
Short Sellers

David Einhorn

David Rocker
IV. A. 7. F. Grandfathering Under Regulation SHO

The requirement to close-out fail to deliver positions in threshold securities that remain for 13 consecutive settlement days does not apply to positions that were established prior to the security becoming a threshold security. This is known as "grandfathering." For example, open fail positions in securities that existed prior to the effective date of Regulation SHO on January 3, 2005 are not required to be closed out under Regulation SHO.

The grandfathering provisions of Regulation SHO were adopted because the Commission was concerned about creating volatility where there were large pre-existing open positions. The Commission will continue to monitor whether grandfathered open fail positions are being cleaned up under existing delivery and settlement guidelines or whether further action is warranted.

V. 11. Can I obtain fails information?

Currently, threshold lists include the name and ticker symbol of securities that meet the threshold level on a particular settlement date. Some investors have requested that the SROs provide more detailed information for each threshold security, including the total number of fails, the total short interest position, the name of the broker-dealer firm responsible for the fails, and the names of the customers of responsible brokers and dealers responsible for the short sales. The fails statistics of individual firms and customers is proprietary information and may reflect firms' trading strategies. The release of this information could be used to engage in unlawful upward manipulation of the price of the securities in order to "squeeze" the firms improperly.
On July 15th, how short were the shorts?

Short Interest as of 7/15/05

- Shares
- Days to Cover (Red)

Graph showing short interest, average daily share volume, and days to cover from 08/04 to 07/05.
On *July* 15, how long were the longs?

<table>
<thead>
<tr>
<th>ostk share count</th>
<th>(millions, est.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>issued</td>
<td>18.7</td>
</tr>
<tr>
<td>reported short</td>
<td>6.5</td>
</tr>
<tr>
<td>naked short?</td>
<td>0.1? 1? 5?</td>
</tr>
</tbody>
</table>

| total the world "owned" | 25\? ≈ 26\? ≈ 30\? |
On *July* 15, how long were the longs?

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<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>total the world &quot;owned&quot;</td>
<td>25?</td>
</tr>
</tbody>
</table>

18.4 midpoint ≈ 30? ≈ 26? 17.5

19.3
On July 15, how long were the longs?

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</tr>
<tr>
<td></td>
<td>1.4  1.0 other byrne family</td>
</tr>
<tr>
<td></td>
<td>1.0  close friends etc.</td>
</tr>
<tr>
<td>total the world &quot;owned&quot;</td>
<td>25? ≈ 26? ≈ 30?</td>
</tr>
<tr>
<td></td>
<td>17.4  19.7 midpoin</td>
</tr>
<tr>
<td>TRANSFER AGENT</td>
<td>ComputerShare</td>
</tr>
<tr>
<td>------------------------------</td>
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</tr>
<tr>
<td>Ms. Therese Collins</td>
<td>250 Royal Street, MS 3B</td>
</tr>
<tr>
<td></td>
<td>Canton, MA 02021</td>
</tr>
<tr>
<td></td>
<td>T: (781) 575-2193</td>
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<tr>
<td></td>
<td>F: (781) 575-2549</td>
</tr>
<tr>
<td>Name</td>
<td>Firm</td>
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<tr>
<td>---------------------</td>
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</tr>
<tr>
<td>Brent Baker</td>
<td>Woodbury &amp; Kesler, P.C.</td>
</tr>
<tr>
<td>Mark Griffin</td>
<td></td>
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<tr>
<td>J. Tullos Wells</td>
<td>Bracewell &amp; Giuliani</td>
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