SAME OLD SONG AND DANCE
JULY 2007

Human sacrifice is alive and well on Wall Street. Relax; Mel Gibson is not going to be shooting any gory scenes on the corners of Wall and Broad, nor is Mola Ram from the Thuggee cult going to be standing on the steps of the Federal Building shouting “Kali Ma!” and literally ripping the hearts out people as he did in *Indiana Jones and the Temple of Doom*.   That being said, investors, and their hard earned nest eggs are once again being sacrificed to the almighty *Bottom Line God*; the all-powerful deity that rules Wall Street decides who is getting a bonus and supersedes any type of moral clarity.   We have compiled another three egregious examples of investor sacrifice that have been ignored by the mainstream press because they are busy sacrificing their audiences brains to more important and pressing issues like Paris Hilton, Posh Spice, dog-fighting at Michael Vick’s pad, and the fact that it is actually hot in the summertime.

The NASD announced that it has fined Citigroup Smith Barney to settle charges relating to the use of misleading materials in retirement/free dinner ***scaminars*** that were targeted at employees of BellSouth in North and South Carolina. The NASD stated that Citigroup did not supervise a team of brokers who used nefarious and misleading sales literature during dozens of ***scaminars*** and meetings that were held in front of hundreds of employees of BellSouth. The result of these ***scaminars*** was that over 1,100 accounts were opened by over 400 BellSouth employees where subsequently over $12 million in retirement savings was ultimately wiped out.

According to the NASD, most of the employees victimized were unsophisticated investors with minimal experience in the financial markets, therefore making it easier for the brokers to manipulate. In an effort to get their hands on the retirement booty as soon as possible, Citigroup devised a plan to turn over all of that accumulated wealth, convincing the workers to retire early.

Most of the BellSouth employees were convinced to retire in their mid 50’s rather than the usual BellSouth retirement age of 62. The promise given by Citigroup was that they would make more money by being retired and investing in tech stocks with Citigroup Smith Barney than by staying on the job.

These employees were not Bell South executives. These were the individuals that climbed the poles, installed the lines, the proverbial backbone of the company. They were of modest means with retirement savings of less than $350,000 in pensions and 401k’s. They were duped into retiring early and turning it over to Smith Barney. James Shorris, the NASD Executive Vice President and Head of Enforcement stated, *“The improperly supervised brokers in this case used misleading documents that made exaggerated and unwarranted projections of future earnings without fully explaining the risks involved.”*

According to the NASD the Citigroup brokers used charts, graphs, handouts and other documents at the seminars and meetings. Tthe broker’s sales presentations led the employees to expect that for 30 years they could earn over 12% annually on their investments and withdraw 9% annually. One document uncovered by the NASD projected the amount a generic 53-year-old BellSouth employee would earn from an initial investment of $300,000. The sheets stated that this typical employee would earn more than $1.8 million, could withdraw $27,000 to $69,000 annually and ultimately have $770,000 left over in 30 years. The brokers failed to tell the clients any of the risks involved with their trading strategy and also neglected to tell them that they would be charged an annual fee of two to three percent. In addition, the sales literature used, grossly overstated the broker’s credentials and experience.

Merrill Lynch, Morgan Stanley, Smith Barney and Charles Schwab are being sued for fraud, breach of contract, breach of fiduciary duty, unjust enrichment and negligent misrepresentation.

Just another day at the office! The lawsuit filed in the U.S. District Court for the Southern District of New York alleges that these firms illegally forced their clients into lower paying deposit accounts, enabling the firms to reap "billions" in extra profit.

The crux of the lawsuit according to *Investment News* is that simultaneously to portraying, positioning and advertising their brokers as objective financial advisers, these firms subsequently force their customers into bank deposits that pay less than market rates, while failing to disclose how much money the firm is raking in.

According to *Investment News* the brokerage firms pocket billions of dollars from this practice that for all intents and purpose should be going to their clients. The latest news is that Wachovia could be added to the suit. With the pending merger of A.G. Edwards, David Carroll president of Wachovia's capital management group stated that the *"Bank deposit sweep will be one of the very first things we work on."*

At least they are up front about sticking it to people.

The *Associated Press* reported, (and of course it was picked up nowhere in the press) that U.S. District Judge John F. Keenan gave final approval to a $40.3 million class action settlement between Merrill Lynch and its clients. This suit was over alleged conflicts of interest between its brokerage and underwriting business. *Now there is a shock.*

Investment News reported that clients who invested in Merrill's Internet Strategies Global Technology and Focus Twenty Funds alleged that *Mother Merrill* failed to disclose conflicts of interest between its brokerage and underwriting operations. This specifically deals with the fact that Merrill's funds directly invested in companies that Merrill had, or was seeking investment banking business. The suit also claimed that Merrill issued falsely optimistic research reports on securities that were held by the mutual funds solely based upon the hopes of gaining the favor of the companies so they could reap profitable investment banking business regardless of whether they were good investments or not.

To quote Roger Daltrey of *The Who...Meet the new boss...Same as the old boss.* I have been writing this newsletter for ten years and it's sad to witness the same old scams and rip-offs pop up seemingly over and over, with slightly different names and faces.

SOURCE MATERIAL:

Siegel, Aaron Merrill Class Action Settled for $40.3M *Investment News* 02/05/07
Jamieson, Dan Suit Alleges Misuse of Sweep Programs *Investment News* 06/11/07
Citigroup Global Markets to Pay Over $15 Million to Settle Charges Relating to Misleading Documents and Inadequate Disclosure in Retirement Seminars *NASD Press Release* Washington D.C.