More On Abusive Short-Seller Manuel Asensio–A Checkered Background Which Includes a $200,000 Fine For "Fraud And Deceit" (Perhaps Reversed) and Some Of His Former Bucket Shop Employers Not Mentioned In His Book

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Dear Mr. Flaherty:

I would like to thank you for your public efforts to clear ThermoView Industries, Inc. of Manuel Asensio's attempts to smear our reputation. (Please see "Shark Attack at Research Frontiers," *EQUITIES* September 2001, page 47.) I would also like to express my gratitude for your letters to key SEC and Nasdaq regulatory staff in regards to their record keeping. Your hard work is much appreciated.

Best Regards,
Charles L. Smith
President, CEO, COO
ThermoView Industries, Inc.

Ed: Alas, while regulators sleep, abusive short-seller Manuel Asensio still has not set the record straight on his July 12th broadcast over PRNewswire where he mixed up a clean shell ThermoView used with a dirty one involved with a convicted felon which it didn't use because the SEC made a clerical error.

The good thing about Asensio is he puts his volcanic eruptions of hate on the Internet for everyone to see, unlike the secret short-sellers who manipulate a part of the press like puppets. At least everyone knows Asensio's attacks are coming from a short-seller who will make maybe millions if he can kill a company.

The bad things about Asensio is that when he makes a serious error such as he obviously has about ThermoView above and Research Frontiers below, he doesn't immediately correct it. This taints the body of his output. How can the average Internet cybervisitor know what is okay and what is not when Asensio does not concede that he can make an honest mistake like the rest of us mere mortals?

Recently, Asensio was at it again. When an institution invested in one of his targets, Research Frontiers† (Nasdaq:REFR–17.60), he incorrectly vilified REFR for selling unregistered securities when management notes the shares were registered and the investor for in the past buying a total failure, Roberts Pharmaceutical.

Actually, EQUITIES *remembers Roberts was a superb investment. We featured Roberts as an emerging growth company and received many thank you comments from our readers when it was later acquired at huge gain for over $1 billion in 1999 by Shire Pharmaceutical Group.*

Meanwhile, Asensio's minion telephoned us, pleading for EQUITIES *to write about him again and review his book which his publishers sent to me to comment. This is like a cold you can't get rid of.*

O.K. I give up. My magazine alma mater

continued on page 29

continued from page 17

Forbes *(not to mention scores of other well-known media) gave a glowing but superficial thumbs up review to this abusive short-seller's book, "Sold Short: Uncovering Deception in the Markets" (Wiley, New York, 2001) by Manuel P. Asensio, over priced at $29.95.*

Because most short-sellers traditionally lurk silently in the shadows, Asensio drew raves from being willing to go on the record. Unfortunately, the reviewers did so little research on that record they failed to protect their readers or report some inexcusable ommisions of his early days as a stockbroker. On a previous article when I politely faxed Asensio a simple question, he angrily faxed back, "If you are such a veteran journalist perhaps you can find out yourself?" "Ouch!" Dig we must.

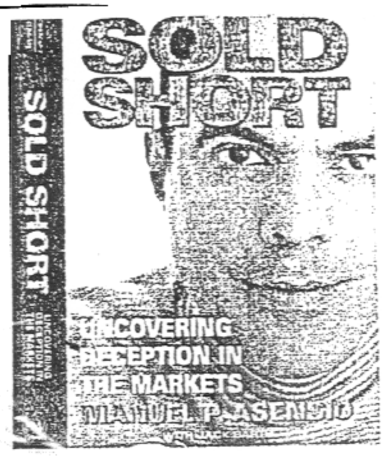
Like Desi Arnez in "I Love Lucy", Asensio can be a screamer. And papers filed in one of the lawsuits against him mention that he admitted he was arrested twice, once having to be taken off an airplane. In a recent deposition, this hot-head threatened to punch a lawyer.

In trying to check this story and get things right, this Forbes*-retired Red Baron called Asensio's office twice on Friday, January 4th. The third time we left questions. And in his book, he advises company's under attack to always respond to questions. We are still waiting.*

The Missing Years

While portraying himself as a short selling crusader who nobly makes downside money only by exposing frauds in grossly over-priced stocks, Asensio has a checkered past—if any of the previous reviewers of his book bothered to investigate it. (However, the really good stuff about Asensio is not between the covers of his book or in the Nasdaq website which only covers recent years. Like the New Testament reporting on Jesus Christ, there are some missing years.)

Forbes *incorrectly reported that Asensio had only worked for prestigious Bear Stearns before going off to form his own firm.*



Wrong. According to juicy court documents, between 1983 when he first became licensed as a broker and 1993 when he went out on his own, Asensio was licensed by 11 different brokerage firms including disgraced, mob-related First Hanover, shut down for fraudulent securities dealings. So was another Asensio employer, Viceroy International.

To his customer businessman Norman Murphy at now defunct Steinberg & Lyman, Asensio was a "stockbroker from hell" misusing—according to Norman Murphy—this customer's hard-earned funds.

Ironically, Steinberg & Lyman was another of those former employee spin-offs from Morty Davis' D.H.Blair. In his book, Asensio smears others for working at such a spin-off firm but S&L and some of his other smelly employers such as First Hanover and another bucket shop Viceroy International were at least as bad and perhaps worse than the underwriters he critized.

How did Forbes *and the rest of the media make this mistake? They believed what was in Asensio's book. In black and white, he says he couldn't crack Wall Street firms, except for Bear Stearns for a year in 1986 but trading profits enabled him to go start-up on his own. In an another spot, he writes, "If Wall Street won't have me, I'll strike out on my own."*

"What a crock," laughs the much traveled gadfly Ray Dirks. "Manuel and I worked together at Baird Patrick in the heart of the Wall Street area."

continued on page 38

continued on page 29

Asensio also worked in a Florida office of Steinberg & Lyman, which was headquartered in mid-town Manhattan.

In 1989, a Florida jury agreed with Norman Murphy's written charges and a judge awarded to Murphy $48,250 in compensatory damages and $200,000 in punitive damages to make up for Asensio's "fraud and deceit." In a deposition, Asensio reportedly claimed the decision was reversed. We wanted to ask him for documentation and the date.

Between 1983 and 2000, Asensio or his firm have been involved in 17 separate lawsuits. Since establishing Asensio & Company as "hostile short-seller," Asensio and his brokerage firm have been sanctioned by the NASD on four separate occasions, almost every year ACI has been in business, for repeated violations of industry rules and regulations (which the fiery Cuban dismisses as "technical violations"). The last sanction in November 2000 resulted in a fine of $75,000 to him and his firm for: 1) misusing and fraudulently participating under aliases in Internet chat rooms to pump or disparage stocks in which he and his company had an investment interest, 2) repeatedly violating industry short-selling rules designed to prevent market manipulation and 3) misleading the public through the firm's website and in firm advertising about graphs of his short-selling performance. No wonder the other reviewers thought it was so good.

The above is from court proceedings against Asensio. They make very interesting reading and contain a lot of events Asensio does not let the public read about in his book.

Currently, a Philadelphia law firm is representing two different plaintiffs in two different states, who are suing and charging Asensio with, among other things, defamation of character, naked short selling, interference with operations and financings, security fraud and stock manipulation, not to mention murky relationships with shady offshore operators.

In January, the suit in Philadelphia of Hemispherx Biopharma (Amex:HBI–4.26) for damages of over $300 million goes to trial, while in South Carolina jury selection will begin for the suit by two shareholders of Chromatics Color Sciences (OTC Bulletin Board:CCI–0.03).

Financial Euthanasia

Asensio disses the lady entrepreneur and founder of Chromatics, Darby Mcfarlane, as a former soap opera actress. He never mentions that this lovely Ford model and her technically-educated husband had an anemic premature baby with jaundice who was hurt and lost precious blood each time the child was pricked by a needle in testing. So, instead of using their technology for cosmetics, the couple dedicated themselves to coming up with a non-invasive test. Even without Asensio's constant harrassment, she may fail but that does not make this lady a bad person. And contrary to what you might conclude from reading Asensio's book, Mcfarlane, reduced to working out of her house, hasn't given up yet.

Likewise, Asensio smears Bob Saxe, who overlapped with me at both Harvard College and Harvard Business School, as a fraud since he has spent so long trying to develop his light valve technology into products. See EQUITIES cover story May/June 2001 "Harvadian Bob Saxe has spent 36 years on a dream of turning day into night. Now his concept Research Frontiers is close to reality."

Don't get me wrong. I have nothing against legitimate short-sellers who help deflate overpriced stocks, whether they be institutional high fliers or pipedreamers.

My friend Sir John Templeton shorted scores of overpriced Internet IPOs and made over $100 million. Sir John didn't comment on a single company until after he sold. He let the wisdom of the market deflate the foolish prices and make his charitable foundations richer.

But Asesnio is pro-active, claiming he only shorts frauds. He tries to kill young companies before their products and services even come to market, after smearing not only their entrepreneurs but those who would finance the company's efforts or buy its services.

Research frontiers claims Asensio has turned out about 15 negative Internet press releases on it. This is trying to kill the enterprise before its products even reach the moment of truth where its customers would decide if there is a future.

Like an aborted child, no one can honestly know if an aborted corporate tot would have become wonderful or just flop because no one knows the future. A new CEO, a new financial backer, or a merger and a company comes alive again. And some of America's largest corporations had difficult moments where short-sellers could and often did impune their motives and blacken management's reputations.

Have sympathy for Research Frontiers President and CEO Robert Saxe. Not only must he try to develop a new technology against great odds, but every business move he makes has a sinister spin put on it by Asensio, who Bob Saxe dismisses as "Nonsensio!"

Saxe: Pioneer labeled fraud.

As for fiery Manuel Asensio's book, this reviewer gives its thumbs down. No stars! After all, Asensio's title talked about his adversaries' deceptions, but he left the reader without a clue that he should be ashamed of some of the places where he worked or explained about that $200,000 judgement against him for "fraud and deceit".

It is important that regulators update short-selling rules to protect the public from abusive short sellers. Naked short selling is when illegally selling limitless unborrowed shares can depress the stock price of emerging growth companies, killing future jobs in addition to entrepreneur's dreams. Also the share borrowing rules should be closely monitored.

So should index short selling whose excesses could trigger another stock market crash like the one they exaggerated in October 1987. Excesses there could kill a new healthy bull market.

In the upside press releases, the SEC or NASD would force any promoter or executive who has made fragrant misstatements to correct them or to be charged with stock manipulation. Instead the SEC has waited over 200 days with Asensio.

It is fascinating that when bears do it, the regulators do very little.–RJF