

GOLD ANTI-TRUST ACTION COMMITTEE INC.

7 Villa Louisa Road, Manchester, Connecticut 06043-7541 U.S.A.

TELEPHONE: 860-646-7383

FAX: 860-649-8878

E-MAIL: CPowell@GATA.org

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Gary Gensler, Chairman
U.S. Commodity Futures Trading Commission
3 Lafayette Centre
1155 21st St. NW
Washington, DC 20581

Dear Chairman Gensler:

The Gold Anti-Trust Action Committee (GATA) was formed in January 1999 to expose and oppose the manipulation and suppression of the price of gold. What we have learned over the past 11 years is of great importance in regard to this hearing on position limits in the precious metals futures markets. Our efforts to expose manipulation in the gold market parallel those of Harry Markopolos to expose the Madoff Ponzi scheme to the Securities and Exchange Commission.

Initially we thought that the manipulation of the gold market was undertaken as a coordinated profit scheme by certain bullion banks, like JPMorgan, Chase Bank, and Goldman Sachs, and that it violated federal and state anti-trust laws. But we soon discerned that the bullion banks were working closely with the U.S. Treasury Department and Federal Reserve in a gold cartel, part of a broad scheme of manipulation of the currency, precious metals, and bond markets.

As an executive at Goldman Sachs in London, Robert Rubin developed an idea to borrow gold from central banks at minimal interest rates (around 1 percent), sell the bullion for cash, and use the cash to fund Goldman Sachs' operations. Rubin was confident that central banks would control the gold price with ever-more leasing or outright sales of their gold reserves and that consequently the borrowed gold could be bought back without difficulty. This was the beginning of the gold carry trade.

When Rubin became U.S. treasury secretary, he made it government policy to surreptitiously operate an identical gold carry trade but on a much larger scale. This became the principal mechanism of what was called the "strong-dollar policy." Subsequent treasury secretaries have repeated a commitment to a "strong dollar," suggesting that they were continuing to feed official gold into the market more or less clandestinely to support the dollar and suppress interest rates and precious metals prices.

Lawrence Summers, who followed Rubin as treasury secretary, was an expert in gold's influence on financial markets. Previously, as a professor at Harvard University, Summers co-authored an

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academic study titled “Gibson's Paradox and the Gold Standard,”¹ which concluded that in a free market gold prices move inversely to real interest rates, and, conversely, if gold prices are “fixed,” then interest rates can be maintained at lower levels than would be the case in a free market.

Federal Reserve Chairman Alan Greenspan understood Summers’ research when he remarked at a 1993 meeting of the Federal Open Market Committee:

“I was raising the question on the side with Governor Mullins of what would happen if the Treasury sold a little gold in this market. There’s an interesting question here because if the gold price broke in that context, the thermometer would not be just a measuring tool. It would basically affect the underlying psychology.”²

President Obama has called for greater transparency in both the federal government and the financial markets. In pursuit of such transparency GATA has made Freedom of Information Act requests to the Federal Reserve and Treasury Department for a candid accounting of their involvement in the gold market. In a reply to GATA’s lawyers dated September 17, 2009, Fed Governor Kevin M. Warsh acknowledged that the Federal Reserve has gold swap agreements with foreign banks but insisted that such documents remain secret.³

As a result, last December GATA sued the Federal Reserve in U.S. District Court for the District of Columbia, seeking access to the Federal Reserve’s withheld records of gold swaps.

Understanding that the manipulation of the price of gold is profoundly important to all markets and the American public, on January 31, 2008, GATA placed a \$264,000 full-page color advertisement in The Wall Street Journal.⁴ GATA’s ad warned, “This manipulation has been a primary cause of the catastrophic excesses in the markets that now threaten the whole world.” What GATA warned against has come to pass.

GATA has long implicated the New York Commodities Exchange (Comex) as being a mechanism by which gold and silver price suppression is implemented. The smoking gun is the excessive concentration of bullion bank positions. This concentration enables market manipulation -- just as market concentration was the justification offered by the CFTC in 1980 when it acted against the Hunt Brothers for manipulating the silver market.

The weekly commitment of traders report documents the total net short position of commercial traders in the commodity markets. The monthly bank participation reports disclose the holdings of U.S. banks in various markets. In a letter to GATA dated February 19, 2010, Laura Gardy, a CFTC legal assistant, wrote: “The commission determined that where the number of banks in each reporting category is particularly small, fewer than four banks, there exists the potential to extrapolate both the identity of individual banks and the banks’ positions.” As a result, as of December 2009 the CFTC no longer discloses the number of banks when it is less than four.

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The CFTC has been investigating possible manipulation of the silver market for more than a year, so this reporting change is disturbing.

The CFTC's own reports of November 2009 show that just two U.S. banks held 43 percent of the commercial net short position in gold and 68 percent of the commercial net short position in silver. In gold these two banks were short 123,331 contracts but long only 523 contracts, and in silver they were short 41,318 contracts and long only 1,426 contracts. How improbable is it that these two banks attract most of the investors who want to sell short? ⁵

It has been possible to extrapolate that the two banks that hold these large manipulative short positions on the Comex are JPMorgan Chase and HSBC because of their huge positions in the OTC derivatives market, whose regulator, the U.S. Office of the Comptroller of the Currency, does not provide anonymity when it publishes market data. ⁶ In the first quarter 2009 OCC derivatives report, JPMorgan Chase and HSBC held more than 95 percent of the gold and precious metals derivatives of all U.S. banks, with a combined notional value of \$120 billion. This concentration dwarfs the concentration in the gold and silver futures markets and should raise great concern about the lack of position limits on the Comex.

GATA has evidence that there are huge physical short positions in the gold market that cannot be covered. Growing stress caused by burgeoning physical bullion demand is threatening to lead to a price explosion, which will restore to the market the balance that regulation has failed to maintain. In our view, the Comex paper market will become dysfunctional, with "force majeure" having to be declared as the concentrated shorts are unable to deliver on their obligations.

We urge the CFTC to report fully and candidly on these markets and take appropriate action.

Sincerely,

WILLIAM J. MURPHY III
Chairman

Footnotes:

1. "Gibson's Paradox Revisited: Professor Summers Analyzes Gold Prices" by Reginald H. Howe.
<http://www.goldensextant.com/>

2. <http://www.federalreserve.gov/monetarypolicy/files/FOMC19930518meeting.pdf>

3. <http://www.gata.org/files/GATAFedResponse-09-17-2009.pdf>

4. <http://www.gata.org/node/wallstreetjournal>

5. <http://www.cftc.gov/dea/bank/deanov09f.htm>

6. <http://www.gata.org/node/7307>