

May 14, 2010

Mr. Gary Gensler  
Chairman  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20581

Dear Chairman Gensler:

Thank you for the opportunity to submit this letter in support of Box Office Futures Exchanges.

My name is Buzz Potamkin, and I am a former studio executive and producer, with over 40 years in the entertainment business. Since retiring, I have consulted and been an Expert Witness. I have served on the Board of Governors of the National Academy of Television Arts and Sciences/New York (NATAS/NY), and prior to that I served on several executive committees of the Academy of Television Arts and Sciences (ATAS). From 1973 - 1984, I served on the Board of the New York Animation Producers Association, with several terms as President. (I left the Association when I moved to Los Angeles.) I have spoken at many industry meetings, and was the Keynote Speaker at the 7th Biennial Symposium on Arts and Technology at Connecticut College. I have written on industry business matters for *Animation World Magazine* for the past 15 years.

I have been asked to expand upon my article *Where's There's Smoke, There's a Smoke Machine - A Case for Movie Futures*, published May 6, 2010, on NakedCapitalism.com, a well-regarded business/finance web site, currently "Technorati Authority #3" out of over 7,000 sites. I have received no remuneration for this statement.

### **Box Office Futures Needed by Non-entertainment Industries**

There are significant non-entertainment non-finance real world parties/industries who currently have no way of hedging their significant risk in their normal, usual and customary business dealings regarding individual movies. The two areas of most import are Licensing & Merchandising, and Marketing Partnerships. (Others include Commercial Real Estate parties such as Mall Operators.)

**Licensing & Merchandising (L&M)** is a large worldwide industry, perhaps the largest retail market in which movies play a part. "Box Office Gross" is merely one retail metric of motion pictures; DVD sales are another. Both pall in comparison to L&M. According to LicenseMag.com (the L&M industry authority), in 2009 worldwide retail of L&M products was \$187.2 Billion. Of the top 25 licensors listed in their *Top 125 Global Licensors*, responsible for over \$115 Billion of the total, at least 10 (including most of the members of the MPAA) are in the entertainment industry, with a total of worldwide retail sales of nearly \$60 Billion. (Obviously not all of this is driven by currently released motion pictures, but a large part is.)

I will not comment on the retailers, but rather the licensees who risk substantial sums in undertaking the licensing of characters and the manufacture of products. In many cases, and most specifically in the case of potentially high grossing “franchise movies”, the L&M deals are made 18-36 months prior to the opening of the movie. At that point there is clearly no movie to see; perhaps even no cast or script to consider. Major investments are made in designing, manufacturing and marketing these licensed products. Yet the licensee has no readily available mechanism for hedging the risk. All the investment is tied to one “bet”, made 18-36 months ago, with the results dictated by one weekend. Don’t these parties deserve some way of hedging their substantial risk?

**Marketing Partnerships** is not as large an area, but one with substantial economic risk none-the-less. Like L&M, for a potentially high grossing “franchise film” the Marketing deals are made as far as 18-36 months ahead of the release date. Without limiting the discussion, I would like to use the example of one movie, of the hundreds that are released every year.

The “trades” have recently covered the \$100 Million “marketing bonanza” for this currently released “franchise film.” The Marketing Partners have committed to that expense in support of the movie, for media buys, retail tie-ins, and giveaways. The Partners include Audi, Burger King, Dr. Pepper, 7-Eleven, LG Electronics, Diesel, Oracle, Symantec, Hershey’s, and Sony Music. The \$100 Million does not include their internal costs.

This could truly be called a \$100 Million one-weekend bet. For only one movie. With the bet placed 18-36 months ago. In this case, it may have paid off. But in others there have been extensive failures. Don’t these parties also deserve some way of hedging their substantial risk?

In summation, I support regulated and transparent box-office futures exchanges, especially those that allow significant and substantial non-Hollywood participants to hedge their risk in rather uncertain investments.

Sincerely,

A handwritten signature in black ink, appearing to read "Buzz Potamkin". The signature is fluid and cursive, with a large initial "B" and "P".

Buzz Potamkin

cc:

Commissioner Dunn  
Commissioner O’Malia  
Commissioner Sommers  
Commissioner Chilton