

Giving Manipulators Short Shrift

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Few things annoy a company more than when a short-seller starts bad-mouthing the company to drive down its share price and the company can do little about it. Now, as a result of a recent SEC enforcement action, there may be some recourse against such troublesome activity. On September 12, 2018, the SEC filed an enforcement action against a short-seller, Lemelson Capital Management LLC, and its founder alleging that they engaged in a fraudulent “short-and-distort” scheme by spreading false information about a biotech company in order to profit from the decline in the company’s share price (<https://www.sec.gov/news/press-release/2018-190>).

The SEC was careful to note that short-sellers are free to express their opinions about particular companies but are not entitled to disseminate false statements to support their short-selling activity. Thus, if a company believes that a short-seller is in fact spreading false information, it may now have an avenue, through use of the SEC, to have recourse.

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