

ECONOMY & BUSINESS

A bad time for short sellers

Investors who profit by successfully betting that certain stocks will fall are having an arid season, and Tesla's refusal to tank isn't helping

BY RENAE MERLE

NEW YORK — Mark Spiegel begins some mornings contemplating Tesla's fate from the bathroom of his high-rise apartment, where two computer screens are perched near the bathtub for instant updates on his Twitter feed and stock prices.

The hedge fund manager spends much of his day at his dining room table, where he fires off tweets explaining his high-stakes bet that Tesla, a darling of Silicon Valley and a \$60 billion behemoth, will eventually fail, sending its stock price tumbling.

So far, the bet has been mostly a loser, but Spiegel isn't ready to relent. "I just don't want it to kill me in the short term," he says as his eyes toggle between computer screens and a Pomeranian pleading for attention around his ankles.

Spiegel's small hedge fund, Stanphyl Capital, is part of one of Wall Street's most aggressive bets against a single company in history. The \$10 billion wager has set up a marathon battle between one of Silicon Valley's most outspoken leaders, Tesla chief executive Elon Musk, and some of Wall Street's most notorious doomsayers.

It comes as many short sellers are struggling. The number of hedge funds focused on betting against companies **has fallen** by more than half as U.S. markets started a record upswing nearly a decade ago. Since 2013, short-seller campaigns against companies have lost an average of about 0.5 percent, according to Activist Insight Shorts, a data provider.

For those betting against Tesla, the fight has been particularly tough. Musk wields his 23 million Twitter followers against his critics with rapid-fire tweets and commands loyal believers who can frustrate his critics.

"These people are much more concerned about **profits** than what's best for our **children**," Ross Gerber, a Los Angeles investor who backs Tesla, said of short sellers. "Morally speaking, you can short Snapchat all you want. Go short Facebook. Tesla's whole purpose is to create an electric infrastructure so we can address the issue of climate change."

The fight has already claimed one casualty. Infamous short seller **Andrew Left**, who has been a vocal critic of Musk and Tesla for years, relented last month and switched from attacking the company to praising it. "It's not worth the brain damage. Nobody can change the narrative on this thing," he said in an interview before announcing his decision.

But Spiegel, 57, and many others are still not ready to back down. "I am very patient," Spiegel said.

Short sellers are not new to criticism. They operate by borrowing shares in a company and then selling them in the hope of buying the same number of shares later at a lower price. If the stock's price falls, they make money by pocketing the difference; if it rises, they lose.

But this wager on gloom has often **unnerved chief executives**



YANA PASKOVA FOR THE WASHINGTON POST

Short seller Mark Spiegel of Stanphyl Capital, seen in his Manhattan apartment, has been holding out hope that Tesla's stock price will collapse and give him a big payday.

who view their stock price as a daily report card and fear that short sellers are manipulating the market for profit. The growing use of **computer algorithms** and other social media sites to make trading decisions is exacerbating the problem, some critics say. If short sellers spread **false** or negative information about them online, it can unfairly shift the momentum of their stock, they say.

To even the playing field, Nasdaq has called for rules requiring short sellers to disclose more information about the positions they hold against companies. "Investors with short positions can pursue strategies designed to invisibly drive down share prices ... intending to profit from the uncertainty created," Nasdaq said in a package of proposals intended to revitalize the capital markets.

Pressure on short investors is also building abroad. Earlier this year, securities regulators in Canada sought an emergency order to stop longtime short seller Marc Cohodes, known as the "scourge of Wall Street," from trading and allegedly providing misleading information about a Calgary-based company. In June, Cohodes accused the firm of illegally dumping toxic substances. Cohodes made "misrepresentations" that he knew would affect the company's stock price, the Alberta Securities Commission argued.

"They tried to shut me up,"

Cohodes said of the regulator's petition, which was ultimately denied. "I would argue that shorts make the world a better place. Most people like to talk about things going up. But there are people who **cheat**. And that is the role of the shorts."

Short sellers worry that they are being unfairly hammered and that efforts to push new regulations could hand the companies they target an unfair advantage. They say their critics are ignoring the good they do, including identifying potentially fraudulent companies such as Enron, an activity they say helps mom-and-pop investors.

Fahmi Quadir, founder and chief investment officer at Safkhet Capital, has been heralded as one of the first short sellers to target Valeant Pharmaceuticals. After reaching more than \$250 a share, the company's stock price tumbled amid accusations of a massive fraud.

"In a sense, it's much harder now," Quadir said. "Investors care less about the overall fundamentals even if these companies are engaged in potentially fraudulent activities."

Quadir said she disclosed her bet against Tesla to show solidarity with other short investors. "I need to support the value short sellers play in the market," she said. "Short sellers are like our first line of defense. They will be asking the questions that others won't be to get to the truth."

Musk has not always hated

short sellers. In a January 2012 tweet, the billionaire said that while "they cause me grief, I would defend the rights of shorts to exist."

But his grudging support has since turned to apparent disdain. "The last several years have taught me that they [short sellers] are reasonably maligned," he said in an October tweet. "What they do **should be illegal**." His office did not return calls asking for an explanation of Musk's change of heart.

Musk has even turned against the global investment firm BlackRock, which has more than \$6 trillion in assets and acts as an intermediary for short sellers borrowing stocks. "Index managers like BlackRock pocket ... excessive profit from short lending," Musk said in October. BlackRock says it is helping investors.

Musk has attracted formidable opponents, including Jim Chanos, who bet against the energy giant Enron before its collapse, and Steve Eisman, who made millions betting against the housing market before the global financial crisis. Both have said they are shorting Tesla's stock.

Their arguments against Tesla range from competitive — that it will eventually be eclipsed by more-experienced carmakers — to allegations that the company is exaggerating its production figures. Some are skeptical that the company will be able to pay off or refinance more than \$1 billion in bond payments coming due over

the next year.

Hedge fund manager David Einhorn recently compared Tesla to Lehman Brothers, which his firm, Greenlight Capital, bet against before its 2008 collapse. "Like Lehman, we think the deception is about to catch up to TSLA," Greenlight said in a quarterly investor letter. "Elon Musk's erratic behavior suggests that he sees it the same way."

The battle reached a peak in August when Musk tweeted that he had funding "secured" to take Tesla private, sending the company's stock price soaring. Two weeks later, Musk backed away from the plan and in October reached a \$20 million settlement with the Securities and Exchange Commission, which alleged that he had lied to investors about the probability of such a deal. (A week later, Musk taunted the agency as the "Shortseller Enrichment Commission.")

Short sellers saw Musk's tweet about taking Tesla private as a maneuver aimed at harming them, noting that the chief executive had warned online that they should prepare for a big burn. The company's stock price would eventually fall again, but not before **short sellers had been forced to cover** steep losses. Left, the short seller, sued, claiming that Musk had "artificially manipulated" Tesla's stock price with the tweet to "burn" short sellers.

Spiegel, meanwhile, is still convinced that Tesla will eventually

run out of steam. His \$8 million, seven-year-old hedge fund is **down** about 15 percent this year, mostly because of the bet against Tesla. The fund has other investments that have worked out better, including positive bets on a telecommunications company and in the agriculture sector. A wager that U.S. stocks will drop overall has also recently been profitable.

"We're actually making really good money today because the market is tanking and we're in that short," he said on a day in October when the Standard & Poor's 500-stock index fell nearly 2 percent.

But whenever Tesla's stock price moves significantly higher, as it did after Musk's tweet about taking the company private, Spiegel must adjust. "You wind up essentially getting whipsawed many times," he said. "We have realized a lot of losses there."

He spends hours every day retweeting posts from Tesla's skeptics and critics. On Election Day, he retweeted a picture of Musk with an "I Voted" sticker altered to say "I'm a fraud." When Tesla recently reported a better-than-expected quarterly profit, he remained skeptical. "It's all downhill from here," Spiegel said.

It may take longer before he is proved right, Spiegel says. But in the meantime, he remains hopeful for the worse. "Part of my job is to make sure it doesn't crush me before it collapses," he says.

renae.merle@washpost.com