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Timminco investors deserved more

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Eric Sprott may know what he's doing but plenty of retail investors in Timminco [TIM-T] don't have the faintest clue what they've gotten themselves into.

I base this claim on a cascade of e-mails that landed in the inbox a couple of weeks ago after this space discussed how Timminco's biggest shareholder and, effectively, its CEO, sold a lot of stock at prices well below where the shares trade now.

That column coincided with a lot of speculation and short selling in the market that made the stock sell off sharply. The e-mails were written in capitals and peppered with accusatory exclamation marks. These investors are obviously speculating wildly, because if they knew the story well, and felt confident about it, they'd be delighted to see the stock fall since they could buy more.

I also got a call from the Ontario Securities Commission the day the column appeared. The OSC wasn't calling to comment about Timminco and we never discussed the company. Rather, the officials were slightly miffed that I'd suggested the insider trading disclosure system had let small investors down.

Why? Because I think investors with limited knowledge and/or time should have had easier access to the fact that Safeguard International, the fund that used to be a big owner of Timminco, had sold down its ownership aggressively. To recap, Safeguard is run/controlled by Heinz Schimmelbusch, who is also the CEO of Timminco and of a European company called AMG.

A little more than a year ago, Safeguard created AMG by transferring into it the shares of certain companies it had invested in. In return, AMG gave Safeguard shares in itself. The transfer was disclosed as an insider trade, but when Safeguard then started selling its AMG shares, it didn't disclose it, even though a healthy majority of AMG's value – of its economic interest – was Timminco shares.

Why is this important? Because it's so hard to know who's right about Timminco's technology. On the one hand, confident and well-dressed hedge fund managers go on TV claiming to know the story well and asserting that there's no way this technology can work. Their strongest argument is that Timminco has spent so little money on its technology compared to bigger rivals, and that the operating costs of Timminco's refining process are also suspiciously lower.

That's great stuff until you hear the CEO of Q-Cells, the biggest solar cell maker in the world, saying "the product is very good and we are happy with the contract … With all technological developments there is risk. The largest risk is technology and they seem to have mastered that very well."

But then again, Q-Cells' contract is for only 400 tonnes of Timminco's upgraded silicon this year. If it works out, it grows to 3,000 tonnes. If.

That said, Switzerland's ABB, which sold Timminco some of the gear it uses to refine silicon, says that to its knowledge no company has ever thought of doing what Timminco says it's doing. Dow Jones says ABB's vice-president of metallurgy has visited the plant and owns a few Timminco shares.

And on and on it goes.

The arguments are pretty compelling in both directions, which is why it's so useful to watch what insiders are doing. And as I said the last time, that's not easy because the selling wasn't disclosed.

Here's an excerpt from what the OSC sent me: "If an insider of a reporting issuer enters into … an agreement of any nature or kind, the effect of which is to alter, directly or indirectly, i) the insider's economic interest in a security of the reporting issuer, or ii) the insider's economic exposure to the reporting issuer … then the insider shall file a report in accordance with Section 3.1 of this Instrument."

There are of course myriad subclauses to all this, but all things considered, I think Mr. Schimmelbusch should have let investors know what was happening, whether or not he was legally bound to do so.

This is particularly true given that some company insiders, including the former CEO and Safeguard, were acquiring stock for pennies while investors didn't know Timminco was working on this ground-breaking technology. The company is reviewing the former CEO's trades.

In past stories, Mr. Schimmelbusch insisted the disclosures were all proper, and that Safeguard sold down its position to reward its investors, who had agreed to extend the fund's term. That extension, he says, was useful to Timminco. He couldn't be reached for further comment yesterday.

But the sales were an exercise in stock valuation by the ultimate insiders who were keen buyers of stock around $1 or less and sellers at prices well below today's price.

This should have been more clearly disclosed.