January 2, 2013 – Living a Lie

Living a Lie

I suppose this is the time of the year for review and prediction. I'm sure you have noticed that I've gotten away from short term price predictions for silver, although I have actually become more resolute in my expectations for much higher silver prices long term, both on an absolute basis and relative to gold. There is an easy explanation for my short term uncertainty and long-term certitude (as much as anyone can ever be certain about anything in the future) Â? the continuing silver manipulation. Tell me what happens to the silver manipulation and I'll tell you where the price is likely to be.

As long as the concentrated short position of JPMorgan in COMEX silver exists, the manipulation of the price of silver will exist. Under that circumstance, the price of silver will fluctuate much as it has over the past few years' trading range; say between $25 to $50. Since all price manipulations must end and because the silver manipulation is of the short-side variety, when it ends the price must react violently higher; say over $100 or more. Therefore, at current levels the potential long-term risk/reward investment equation for silver is excellent, better than for any other alternative asset I can think of. The timing comes down to when the silver manipulation ends.

If anything, my conviction that silver has been manipulated in price for decades has become stronger as time has evolved. Certainly, more have come to embrace it and given the facts involved, even more seem poised to grasp the obvious in the future. It has been suggested to me that I overuse the word manipulation and should try to use different words to describe it. I believe there is merit to this suggestion and I have been grappling with a better word to describe the long-term price suppression and almost daily dirty market tricks performed on the COMEX. A recent news account may have provided a better term and, in addition, given some broader perspective to the seriousness of the ongoing silver crime in progress.

Earlier this week, the US Senate voted overwhelmingly to confirm William Baer as the new head of the antitrust division of the Department of Justice. (How the vote to confirm could be so overwhelming, 64 to 26, and yet had taken almost a year is testimony to how far the entrenched political rancor has advanced). Mr. Baer seems well-qualified in antitrust matters, having distinguished himself over many years both in private and public service. This is an important role at the DOJ and, as the newspaper account I read explained, the antitrust division is responsible for reviewing corporate mergers and for prosecuting price-fixing cases. In simple terms, the primary mission of the division and of US antitrust jurisprudence is to prevent undue market concentration that leads to price-fixing. Also in simple terms, that's exactly what JPMorgan is doing in silver, namely, fixing the price.

So let me temporarily suspend the term manipulation and substitute price-fixing, although they are, essentially, the same. Let's look at the facts and see if JPMorgan is fixing the price of silver in the same terms as one would imagine the DOJ would view it. The first thing the DOJ would likely consider is the market share that exists or would exist following a merger of competitors. In the case of JPMorgan, the merger took place almost 5 years ago, when the bank took over Bear Stearns and their big concentrated silver short position. Recent concentration, or market share, reports from the CFTC indicate that JPMorgan held around a one-third (33%) share of the short side of COMEX silver futures (minus spreads) an amount also equal to 25% of annual world silver mine production. I claim this is an outrageously large market share on both counts and that, in and of itself, its existence is artificially fixing the price of silver lower than it would be if this market share didn't exist.

The key question, therefore, is what percentage of market share can be considered to cause price-fixing, as a percentage of the futures market and in terms of equivalent annual world production/consumption? As for the futures market percentage, there are two measurements: past levels of market share that led to the CFTC bringing charges of manipulation and in relation to position limits, actual or proposed. To my knowledge, JPMorgan has a larger market share than ever was held in any historical agency action against manipulation. In terms of annual world production, no single entity, other than JPMorgan in COMEX silver, holds a market share of 25% in an actively traded futures contract. In terms of speculative position limits, either existing or proposed, I know of no circumstance where a single trader's position is six to seven times such limits, as is the case for JPMorgan in COMEX silver. (Roughly a 5000 contract proposed position limit in silver versus a JPMorgan position that has been as high as 38,000 contracts recently).

I believe the DOJ would disallow any merger and move to prosecute for price-fixing JPMorgan in COMEX silver if they had direct jurisdiction and not the CFTC. This is especially true if the DOJ became aware of the collusive nature of COMEX silver trading between JPMorgan and other commercial entities as is proven in weekly CFTC COT reports. I think the key measure that the antitrust division of the DOJ would consider if they were reviewing the situation in silver would be to ask what the price of silver would be if JPMorgan's concentrated short position did not exist. In fact, this is the one question that all silver investors should be asking themselves continuously. That's because the answer explains why silver is going much higher over the long term.

Whether in antitrust price-fixing terms or investment potential, the real question comes down to who could replace JPMorgan's one-third market share on the short side of COMEX silver and at what price? Clearly, if the concentrated short position was merely transferred to another large entity, the price-fixing would remain in effect. Only a dissolution of the concentrated position by large numbers of traders replacing JPMorgan would constitute a free market solution to the price-fixing. It's also possible that the COMEX could be, effectively, shut down and the concentrated short position resolved that way, as I have recently suggested. In a free market solution, one has to ask himself at what price is it likely that large numbers of independent traders could be persuaded to sell out long silver positions and/or go short, thereby replacing JPMorgan?

Current facts suggest it would take a very high silver price to encourage enough new sellers to emerge. The simplest fact is that despite prices climbing sharply over the past five and ten years, more silver is being purchased rather than being sold. As it is, the data indicate an unusually low concentration on the long side of COMEX silver compared to the extreme concentration on the short side. This means that there are no big single entities on the long side of COMEX silver and suggests that silver is under-owned, rather than over-owned. The same is true in the physical silver market where there are no signs of a long concentration and the total dollar value of all the silver bullion owned by investors is measured at around $30 billion (compared to trillions of dollars in gold). With so little potential silver available for sale and no big single holders, how can there be large enough selling to replace JPMorgan, except at the most extreme high prices?

This is why I maintain that JPMorgan is stuck in their concentrated silver short position and has no easy exit. That was one of the failures in the legal presentation of the civil manipulation case against JPMorgan that was dismissed. The plaintiffs' lawyers should have made clear that JPMorgan could not eliminate their concentrated short position without creating disorderly pricing and made that a condition and proof of the case. That may mean (as it has recently) that JPMorgan may fix prices lower to trip off technical fund selling. Or it may mean that JPMorgan gets pressured by a physical silver shortage and gets caught to the upside. Either way, JPMorgan has fixed the price of silver.

It occurs to me that we are living a lie in silver. The lie is primarily the CFTC's refusal to adequately address legitimate questions of price-fixing in silver by JPMorgan and to enforce the law. Participating in the lie is the industry self-regulator, the CME Group, and JPMorgan itself. The lie is that silver is currently priced in free market terms. Free markets, however, are characterized by broad numbers of buyers and sellers, not by concentrated positions on either the buy or sell side of a market.

Lying on any level is abhorrent and whether in children or adults, is a most distasteful personal trait. But lying by those in public office is the most destructive form of all because it undermines the social fabric and the rule of law. When those who have sworn an oath of office to uphold the law refuse to do so and then lie about it, we have descended as low as is possible. That's where I feel we stand in silver Â? JPMorgan fixing the price in full view of the regulators at the CFTC and the CME and then all three lying about it.

As abhorrent as the silver lie may be, there is a flip side that augers well for silver investors ahead. There are few lies that stand the test of time. Sooner or later, the truth will invariably come out about any lie. Come to think of it, a lie has no better chance of enduring than does price-fixing or manipulation, which are all essentially the same thing. As bad as it is that JPMorgan, the CME and the CFTC have lied about silver price-fixing, it is good that more are coming to appreciate how untruthful they have been and what the inevitable price resolution will be. The loss of public trust in these important institutions is, however, beyond calculation. At some point, silver investors will be realizing outsized profit returns but will be lamenting the societal damage that such a big silver lie involved.

Ted Butler

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Silver – $31.00

Gold – $1688

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