


**Independent Investment Research Focused on Public Company Interactions with the SEC.**

**Sector Warning**

**Alert: Three Online Auto Companies Now Have Undisclosed SEC Investigations**

 Undisclosed SEC investigations were recently confirmed as ongoing at three online auto companies. Since Sep-2021, at \$330 / share, we repeatedly warned about one at **Carvana**. We first warned of an undisclosed SEC investigation at **CarGurus** last week. **Today we have a new warning on AutoNation**. We've found heightened SEC scrutiny in a sector is often bad for the entire sector. That may be happening now.

We have followed the SEC's interactions with public companies for well over twenty years now. Time and again, we've seen the SEC identify an industry with potential accounting and disclosure issues, develop the relevant expertise, and then go after related companies.

Though not a certainty, our experience suggests SEC investigative activity in the sector could have its roots in accounting issues disclosed by Carvana in early 2020.

Early in the Covid pandemic, **on 30-Mar-2020**, Carvana filed an 8-K, ostensibly to give investors a "Business Update" on the impact the company was seeing from it.

Tucked within this same 8-K, Carvana said this –

*In addition, we have received a voluntary request from the SEC requesting information about our related party disclosure and accounting policies and procedures for historical loan sales and refinancings. We are providing relevant documentation in response to this request.*

Carvana 8-K, 30-Mar-2020

- **Carvana** (CVNA \$40.83, \$7.6 Bil mkt cap): An undisclosed SEC investigation was last confirmed as ongoing at Carvana on 22-Jun-2023. **We have no reason to believe Carvana's accounting issues have been resolved.** If anything, they've been kept hidden.

- **AutoNation** (AN \$152.66, \$6.7 Bil mkt cap): **New Warning.** Added to Watch List. **SEC investigation confirmed.** Early signal of undisclosed SEC investigative activity first found on 17-Jul-2023, was then confirmed as on-going on 19-Sep-2023. This is a change from a response dated 12-Sep-2022, at which time no signs of on-going SEC investigative activity were found. First time on our Watch List since we first started covering AutoNation in Aug-2012.
- **CarGurus** (CARG \$17.49, \$2.0 Bil mkt cap): Early signal of an SEC investigation at CarGurus on 11-Jul-2023. It was undisclosed. Earnings report delayed on 03-Aug-2023. Within the 10-Q filed 09-Aug-2023, we then first learned of internal controls problems involving the company's CarOffer subsidiary. On 28-Aug-2023, CarGurus' SEC investigation was confirmed as active-and ongoing. It remains undisclosed.

Timing of SEC responses to us suggests the managements of AutoNation and CarGurus may have each known about their SEC probes since at least Jul-2023.

**There was no recent SEC investigative activity found at the following –**

- **Carmax (KMX)**, as of 05-Jul-2023.
- **Lithia Motors (LAD)**, as of 05-Sep-2023.
- **Vroom, Inc. (VRM)**, as of 26-Sep-2023.
- **Cars.com (CARS)**, as of 27-Sep-2023.

We are freshening up the research on **TrueCar, Inc. (TRUE)**. The abrupt termination of the CFO on 23-Sep-2023, who had only been in the role for seven months, since 21-Feb-2023, is its own red flag.

On the next page we included excerpts from research we published about 20 years ago (a little blast from the past for you). They illustrate well the concept and frequency of the SEC going into a sector and "sniffing around."

Enron was the first company we warned on, way back in Oct-2001.

**Enron (ENE)** It all started with Enron for us, as we had just changed our business model to begin offering value-added commentary to our SEC work. The following is from our report of October 31, 2001, the day Enron announced an informal SEC inquiry: "We believe Enron's SEC woes are far less "welcome" and potentially far more serious than Ken Lay and the company lets on." The stock was still trading in the mid-20's at the time of this warning. By year-end, Enron had vaporized.

As part of the Enron warning, we cautioned clients the SEC could easily expand into other names in the natural gas industry.

That happened, with Calpine and Williams, as shown below –

**Calpine (CPN)** We first issued cautionary remarks on November 27, 2001 at \$24 per share. In our next warning on December 11, 2001, now at \$18.40, we called the company's numbers "manufactured EBITDA". Curiously, we published the very day after Calpine held a two hour conference call to blast a NY Times article critical of the company. In the call, the company kept pointing to its EBITDA numbers as a source of strength. Again on February 6, 2002, at \$9.00, we were the first to alert investors to SEC investigative activity. Later that same day, the company reluctantly acknowledged an SEC probe. We closed out our warning on October 22, 2002 with the stock at \$2.04.

**Williams (WMB)** On January 28, 2002 we issued our first words on initial caution on WMB at \$24.77 per share. Like most energy merchants, Williams later came under investigation by the SEC.

Below are some additional sectors in which we observed SEC involvement at the time.

**Generic Pharmaceutical Makers:** On November 29, 2001 we alerted clients to what we saw as meaningful SEC activity within the generic pharmaceutical sector. With the exception of Watson (WPI), none of the companies we warned on in that report have recovered from their prices seen at time of our warning (as of 12/31/03). Watson (WPI), which had just gapped-down shortly before our warning, was \$28.93 at time we published. It's since recovered. But King (KG) was trading at \$39.59 at the time of the warning and was around \$15 by the end of 2003. Elan (ELN), \$43.10 at publication, fell off a cliff in early 2002 and is now under investigation by the SEC. It closed at under \$8 at year-end 2003. Millennium (MLNM) also hasn't seen its price of \$31.43 since we published. It closed year-end 2003 around \$19.

**Food Sector** (Highlighting General Foods, GIS; Heinz, HNZ, and Sysco, SY) On May 8, 2003 we issued a warning regarding SEC risk across the food sector. We were concerned about the heightened level of SEC activity we had seen previously in the supermarket sector as well as food company disclosures about SEC matters. By the end of 2003 our warning had expanded to cover all consumer commodity names. A number of companies in the sector have since announced formal SEC investigations including Kraft, Dean Foods, and General Mills. Vendor allowances appear key.

**Video Game Sector** On July 20, 2003 a number of video game companies simultaneously (now wasn't that a coincidence?) disclosed the existence of SEC inquiries. We warned that the entire revenue recognition model used in this industry could be at risk.

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Email: [direports@disclosureinsight.com](mailto:direports@disclosureinsight.com)

Telephone: 763-595-0900 (USA)

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**Important:** The SEC reminds us that its assertion of the law enforcement exemption should not be construed as an indication by the Commission or its staff that any violations of law have occurred with respect to any person, entity, or security. In its responses, the SEC did not disclose the details on investigative activity referenced herein. All we know is that they somehow pertain to the conduct, transactions, and/or disclosures of the companies.

New SEC investigative activity could theoretically begin or end after the date covered by the latest information in this report, which would not be reflected here. The FOA data reflected in this report are only current as of the dates indicated for each individual company. Similarly, public company activities and/or disclosures made since the dates indicated herein could impact your analysis.

Only companies with confirmed, undisclosed SEC investigations are maintained on our Watch List of companies with undisclosed SEC investigations.

**Clients are invited to contact us anytime, in total confidence,  
to discuss the data and/or risks we identify here.**

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