



California Corporate & Securities Law

“Cooked Dividends” Leads to Bloody Massacre

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Cooking dividends is the practice of declaring a false or “cooked” dividend for the purpose of raising the value of a company’s shares. Apparently, this was a serious problem in the early days of both California and Nevada. The practice is still illegal under the California General Corporation Law. Section 2254, among other things, makes every director, officer or agent of any foreign or domestic corporation guilty of a felony who knowingly concurs in making, publishing or posting either generally or privately to the shareholders or other persons any:

- Written report, exhibit, statement of its affairs or pecuniary condition or notice containing any material statement which is false,
- Untrue or willfully or fraudulently exaggerated report, prospectus, account, statement of operations, values, business, profits, expenditures or prospects, or
- Other paper or document intend to produce or give, or having a tendency to produce or give, the shares of stock in such corporation a greater value or a less apparent or market value than they really possess . . .

Note that this provision is independent of the Corporate Securities Law of 1968.

The practice of “cooking dividends” so outraged Samuel Clemens (aka Mark Twain) that he fabricated a hoax based intended to expose the practice. In an October 28, 1863 article for the *Territorial Enterprise*, he wrote a lurid but fictional account of a man who brutally murdered his wife and nine children as a result of losses suffered through investments in companies that cooked dividends. Clemens got the notice that he wanted, but he also sparked widespread outrage. The next day, the *Territorial Enterprise* included a notice from Clemens: “I TAKE IT ALL BACK”. Less than a complete penitent, Clemens later justified his story as necessary to get the attention of the San Francisco papers, famously saying “The only way you can get a fact into a San Francisco journal is to smuggle it in through some great tragedy”.

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