

Achieve the A

EmigrantDirect.co
More Money For Your Mon

▶ Learn

CNNMoney.com

PRII

Powered by

A study in CEO greed

How one intrepid academic exposed the latest stock option scandal.

By **Geoffrey Colvin**, FORTUNE senior editor-at-large
May 30, 2006: 6:28 AM EDT

FORTUNE

(FORTUNE Magazine) - One of the questions crying loudest from the developing scandal of backdating stock options is, Why now?

As new companies announce daily that they're investigating their stock option practices or that they've received inquiries from the SEC or federal prosecutors - United Health Group, Caremark Rx, (Research) and Juniper Networks (Research) are among those that have acknowledged ongoing probes - you have to wonder what sparked the mess. After all, we're talking about pre-2002 behavior, mostly from the '90s.

The answer leads me to say, Three cheers for the digital revolution and for SEC rules on executive-pay disclosure. Without them, we might not know how some executives were robbing their shareholders - and it might still be going on.

The problem, in brief, is that executives at some companies were backdating their stock options to dates when the stock was at its low for the year or the quarter, tilting the odds of profiting on those options heavily in their favor. Backdating isn't necessarily illegal, but following the complicated rules would largely eliminate the advantages of doing it.

As actually practiced, it was stealing, pure and simple. Executives looked back over several months and chose the date on which they wanted the right to buy shares of the company they were being paid to manage and - surprise! - they chose the date when the price was lowest. Wouldn't you like to decide in retrospect when to buy a stock?

We might never have heard about this slimy behavior if a researcher at the University of Iowa, Erik Lie, hadn't decided to study the behavior of stock prices before and after option grants. He wasn't the first. Other academic researchers had studied the phenomenon and found suspicious results. But none of the researchers had suggested that executives might be doing anything illicit or illegal.

Then Lie conducted the mother of all stock option studies, looking at 5,977 option grants between 1992 and 2002. In his paper, published a year ago, he found the same suspicious results as earlier researchers, only more pronounced. Further slicing and dicing the data, he discovered that unless executives possessed truly extraordinary abilities to forecast precise overall market movements, they had to be backdating the grants.

This new hypothesis was a bombshell. The SEC had previously investigated a few individual cases of backdating, but Lie's study was the first evidence that the phenomenon was widespread.

He then supplied the *Wall Street Journal* with data identifying six companies bearing strong evidence of backdating, leading to a March article that triggered today's mushrooming scandal.

Lie's study never would have happened before the Internet Age. Gathering thousands of SEC documents, gleaming the relevant data, crunching literally millions of numbers - it was possible in theory, but it would have been impossibly expensive. Lie relied on the Standard & Poor's ExecuComp database, taken from the SEC's online documents, and a vast online trove of market data created by the University of Chicago.

Yes No

Yes No

Yes No

Get Quotes!

But even the Internet wouldn't have enabled the uncovering of this scandal if the SEC hadn't imposed a rule requiring companies to report executive stock options in detail starting in 1992. That's why Lie's research (and virtually all other options research) begins with that year. If not for that rule, executives could still be scamming shareholders by backdating options, and we wouldn't know a thing about it.

Of course, even after the rule, some executives got away with it for years. Reason: They could legally delay reporting option grants for so long that it was virtually impossible to figure out whether any individual grant had been backdated. That's why Lie had to analyze thousands of grants and derive his conclusions statistically.

Then came Sarbanes-Oxley, which required that option grants be reported within two business days. A new paper by Lie and Randall Heron at Indiana University, still unpublished, finds that evidence of backdating virtually disappears after Aug. 29, 2002, when the requirement took effect.

Were the SEC requirements burdensome government regulations? No way. Though always highly skeptical of new regulatory requirements, I have no problems with these. They tell owners what the hired hands are up to.

And it's clear, as if we needed reminding, that a few of them will always be up to whatever they can get away with. The best way to control them is to make them tell their owners what they're doing - and then make that information available widely, immediately, and freely.

FEEDBACK gcolvin@fortunemail.com ■

Find this article at:

http://money.cnn.com/2006/05/26/magazines/fortune/colvin_fortune_0612

Check the box to include the list of links referenced in the article.

An Investor Guide to the Stock Option Timing Scandal



INSTITUTIONAL SHAREHOLDER SERVICES

**2099 GAITHER ROAD
SUITE 501
ROCKVILLE, MD • 20850-4045
(301) 556-0500
FAX (301) 556-0486
WWW.ISSPROXY.COM**

Copyright © 2006 by Institutional Shareholder Services.

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any information storage and retrieval system, without permission in writing from the publisher.

Requests for permission to make copies of any part of this work should be sent to:

Institutional Shareholder Services

Marketing Department

2099 Gaither Road

Rockville, MD 20850

ISS is a registered trademark of Institutional Shareholder Services, Inc.

Introduction

For years, institutional investors have complained about the excessive pay packages received by top executives at underperforming U.S. companies. In many cases, shareholders had trouble tracking what was happening because of inadequate corporate disclosure of equity incentives, retirement benefits, perks, and change-in-control payments.

In response to these growing complaints, the U.S. **Securities and Exchange Commission** in January unveiled a set of new pay disclosure rules. This proposal was hailed as a positive step to improve transparency and underscore the duty of directors to ensure that corporate assets are used wisely.

However, this sense of optimism faded after March 18 when *The Wall Street Journal* questioned the timing of stock option grants at **UnitedHealth** and five other companies. Within weeks, the SEC and federal prosecutors were scrutinizing option grants at dozens of technology and health-care companies. By mid-June, more than 50 firms had disclosed criminal, regulatory, or internal investigations into whether they backdated or otherwise manipulated the timing of stock option grants to maximize compensation for senior executives. As the number of companies under scrutiny grows each week, institutional investors are increasingly concerned, asking questions, and urging regulators to take action.

To help investors understand the issues raised by option timing, ISS has prepared this guide, which details how this scandal developed and how shareholders and companies have responded.

Background

Stock options are intended to align the incentives of executives with those of shareholders. With a significant option package, an executive has a great incentive to raise the company's share price, which increases both the value of his or her options and shareholder returns.

Almost all U.S. companies grant options to their top executives "at the money," i.e., by setting the options' exercise price (purchase price) equal to the stock price on the grant date. That exercise price often is set at the closing share price on the grant date, or at the average of that day's high and low. Under Section 162(m) of the Internal Revenue Code, at-the-money options are generally considered performance-based compensation that is deductible from corporate tax returns, even if an executive earns more than \$1 million a year.

Typically, recipients may have to wait a year or more before exercising all or a portion of their options, although vesting can be accelerated if a corporate change in control occurs. Companies are required to seek shareholder approval for their option plans, but individual grants are left to the board or the compensation committee to decide. The compensation committee, or a subcommittee, is usually designated as the plan administrator, with oversight responsibility for grants to top executives.

Backdating occurs when a company retroactively sets the exercise price for a stock option to an earlier date. If the stock was trading at a lower price on that earlier date, then the option already would be "in the money" when the executive receives the grant. A company can also "spring-load" a grant by setting the exercise price right before the release of news that would cause the company's shares to rise, or right after the announcement of news that led to a share decline.

Before the Sarbanes-Oxley Act of 2002, companies did not have to report option grants until 45 days after the end of the fiscal year in which they were granted, which provided firms a significant window of time to retroactively match grant dates with share lows. Companies now are required to file Form 4 reports on option grants within two business days of the grant date, which limits opportunities for backdating.

Backdating and option timing are not necessarily illegal, if a company maintains accurate grant records, treats those options as discounted, and accounts for those grants in its earning reports and tax filings. (Even prior to the implementation of Financial Accounting Standards Statement No. 123R, discounted options resulted in a compensation expense.) Also, unlike at-the-money options, discounted grants are not considered performance-based and may not qualify for tax deductions. Consequently, if a company's grants are later determined to have been discounted without proper disclosure and accounting, the firm could face significant tax penalties and may have to file a restatement to reflect the lost deductions and the cost of those discounted options. In addition, backdating may violate **New York Stock Exchange** or **Nasdaq** shareholder-approval requirements and trigger securities fraud liability over misleading disclosure.

For years, shareholder activists and academics have speculated that some executives have engaged in the opportunistic timing of their option grants. Professor David Yermack, in a 1997 *Journal of Finance* article, and Professors Keith Chauvin and Catherine Shenoy, in a 2001 *Journal of Corporate Finance* article, found that option grants to CEOs tend to occur on days when stock prices are unusually low.

Other researchers, including Professors David Aboody and Ron Kasznik in a 2000 article in the *Journal of Accounting and Economics*, demonstrated that managers have manipulated the timing of disclosures so that bad news is released before grant dates. In a 2004 paper, researchers Donal Byard and Ying Li found that the extent of timing opportunism by CEOs was greater at firms where CEOs receive a higher proportion of their compensation from options. Byard and Li also found that opportunism increased at firms where directors received a higher proportion of stock options in their compensation.

In a May 2005 paper for *Management Science*, Professor Erik Lie of the **University of Iowa** reviewed almost 6,000 CEO stock option awards from 1992 through 2002. He found abnormally low stock returns before grant dates and unusually high returns after those grants. In the 30 days prior to unscheduled awards, the average stock returns of those companies trailed the rest of the market by 3 percent, Lie found. After awards, those firms exceeded the market by 2 percent in the first 10 days, and then beat the market by another 2 percent in the next 20 days. For scheduled grants, there was a similar but less pronounced pattern.

"Unless executives possess an extraordinary ability to forecast the future market-wide movements that drive these predicted returns, the results suggest that at least some of the awards were timed retroactively," Lie wrote.

Lie also co-authored a forthcoming paper with Professor Randall Heron of **Indiana University** for the *Journal of Financial Economics* that concludes that the Sarbanes-Oxley Act has led to a decrease in short-term share price dips that often coincided with grant dates at some companies.

Lie's data was cited in *The Wall Street Journal's* March 18, 2006 article, "The Perfect Payday," that raised questions about option grants at UnitedHealth, **Comverse Technology**, **Vitesse Semiconductor**, **Affiliated Computer Services (ACS)**, **Brooks Automation**, and **Jabil Circuit**. For instance, the former chief executive at ACS received grants dated on one of the four lowest trading days for the company's shares in six different years. As the *Journal* noted, the chance of that happening randomly is about one in 300 billion.

Allegations of option timing were raised before this year, but those claims did not generate many headlines. In November 2004, the SEC began investigating option grants by technology companies. In February 2005, **Amalgamated Bank** sued the boards of **Tyson Foods** and **Cisco Systems**. The investor's lawyers claimed that the boards used "carefully timed grants of stock options" to "raid corporate piggy banks." In November 2005, **Mercury Interactive** announced that its chief executive and two other executives had resigned after an internal investigation had found 49 instances where grant dates had been reset. That same month, **Analog Devices** agreed to a \$3 million civil penalty to resolve option-timing allegations.

Implications for Shareholders

While the Sarbanes-Oxley Act has made backdating more difficult, the issues raised by the option timing scandal will remain important for institutional investors for quite some time. It still is possible for companies to inappropriately time option grants around the release of corporate news.

In addition, investors can expect to experience significant stock losses as more companies disclose investigations into their option grant practices and restate financial results. For example, UnitedHealth's share price dipped almost 30 percent following disclosure of regulatory probes into the board's awarding of options to CEO William McGuire and other employees. The company also said it may have to reduce net earnings over the past three years by nearly \$290 million to reflect the loss of tax deductions on option awards.

Many of the other scrutinized firms have seen precipitous share declines, and at least nine companies have announced restatements. On May 19, **SafeNet** shares fell more than 22 percent after it disclosed a subpoena from federal prosecutors. Comverse Technology, **Asyst Technologies**, **Progress Software**, and **Semtech** have delayed filing their quarterly reports as they review their option grants. ACS said it would take a \$32 million charge to resolve accounting issues stemming from the grants.

Another issue is that shareholders may end up paying the taxes and penalties owed by executives who received improperly timed options. In a June 15 filing, **Brocade Communications** said it will pay \$3.3 million to executives and employees who received questionable options. The company said it has offered to cancel the options or to raise their exercise price, and then pay the employees for the difference in cash.

So far, more than 25 companies have been sued, according to Bloomberg News. In some cases, investors eventually will get partial compensation for their stock losses, provided that they make the effort to file settlement claims.

The list of companies under scrutiny likely will continue to grow. Professor Lie has estimated that as much as 10 percent of all stock options granted in the decade before August 2002 were backdated. On June 5, **Merrill Lynch** released a research report concluding that 40 companies in the S&P 500 may have timed their option grants from 1999 through 2002. This list includes firms outside the technology and health-care industries, where regulators have focused their attention.

On June 16, *The Wall Street Journal* reported that **Microsoft** awarded stock grants to employees at monthly lows from 1992 to 1999. A spokesman for the software giant said the practice was legal and did not constitute backdating because the grant prices were set at the lowest price in the 30 days after the grants. Also on June 16, **Home Depot** disclosed three instances before December 2000 where executives received stock options with exercise prices that were below the market price on the day they were approved.

On a more fundamental level, option timing has allowed some executives to prosper without building long-term shareholder value. Backdating "can have a pernicious effect" on executive compensation, Ann Yerger, executive director of the **Council of Institutional Investors**, wrote in a June 12 letter to companies. "By giving an executive an instant paper profit, backdating undermines the purpose of options, which is to motivate executives to act in ways that lift the stock price."

In addition, many investors view option timing as stealing from corporate coffers, especially since many companies expend cash on stock buybacks to counteract the dilutive impact of their executives' option profits. One of the UnitedHealth investor lawsuits compared backdating to "picking the lottery numbers after they have been announced on the evening news." In a May 31 press release announcing litigation against UnitedHealth, Connecticut Attorney General Richard Blumenthal called for "an immediate halt to this illegal, immoral practice."

The option-timing scandal also calls into question the oversight provided by boards and compensation committee members at these companies. When a compensation committee fails to perform its fiduciary responsibilities and provide adequate oversight of the executive pay policies and process, shareholders eventually suffer. Some investors believe that such failure signals a board's more general lassitude in dealing with management.

Even after options-related investigations are over and regulatory concerns are settled, some investors will have lingering doubts about the boards that failed to prevent option timing. Moreover, investors may fear that other accounting problems exist but have yet to come to light. The disclosure of backdating sends a "signal that management is willing to fudge numbers for their own benefit and they might be willing to play other accounting tricks," Heron said in an interview with Bloomberg News.

Companies Respond

Virtually all the companies under suspicion are conducting their own internal investigations, in addition to the inquiries by the SEC, the U.S. Justice Department, and federal prosecutors.

For instance, at Mercury Interactive, the board appointed a special committee of disinterested members of the audit committee to conduct an internal investigation in response to an SEC inquiry. The special committee was assisted by independent outside legal counsel and accounting experts.

The committee found that, from 1995 to the present, there were 49 instances in which the stated date of a Mercury stock option grant was different from the date on which the option appears to have been granted. In almost every such instance, the price on the actual date was higher than the price on the stated grant date. The committee also found that "the overwhelming majority of the grants" were manipulated between 1995 and 2002.

The special committee faulted Mercury's compensation committee, noting, "questions should have been raised" by members from 1995 through 2002. Specifically, the special committee questioned whether six grants that the directors approved by unanimous written consent were properly dated. Compensation committee members reasonably, but mistakenly, relied on management to draft the proper documentation for the option grants and to account for the options properly, the special committee noted. And on June 9, the company said it would move to void 2.63 million options awarded to former CEO Amnon Landan between 1997 and 2002, Bloomberg News reported. The company also is pursuing claims against Landan and three other executives.

It remains to be seen if other companies will void options and seek to recoup compensation from executives. Whereas Mercury disclosed the results of its option review in November, most of the other companies under scrutiny didn't start investigating their grants until April or May.

At UnitedHealth, management has sought to address investor concerns after announcing an internal review of options on April 7. Ten days later, the chief executive recommended suspending the use of options and other forms of senior executive pay. On May 1, the day before the company's annual meeting, the board approved a new set of compensation guidelines, including setting a fixed date each year for grants to existing employees.

At **McAfee**, the company fired its general counsel after its investigation into option timing. At Converse Technology, the company's CEO and two other executives quit in May after the company found that some grants may have been backdated. Overall, at least 15 executives and directors, including five CEOs and three general counsels, have quit or been fired, according to Bloomberg News.

What Are Large Shareholders Doing?

Shareholders are reacting in various ways to the growing number of firms that have disclosed option-timing probes. At least two labor pension funds say they are considering filing shareholder proposals to seek enhanced disclosure of option awards.

Investors, including pension funds from six U.S. states, Europe, and Australia, have filed more than 70 securities class-action and shareholder derivative lawsuits against more than 25 companies, according to press reports. "The damages total in the tens of billions of dollars," Darren Robbins, a partner with the law firm of **Lerach Coughlin Stoia Geller Rudman & Robbins** told *Red Herring* magazine. Robbins said he is bringing 34 cases on behalf of 350 to 400 pension funds, which "are completely beside themselves and outraged over the self-dealing that has gone on."

Some institutions likely will withhold support from directors who failed to provide proper oversight over past option grants. The ISS benchmark policy calls for possible withhold votes against compensation committee members and recommendations against equity incentive plans at companies with poor pay practices, which would include allowing executives to manipulate option grant dates.

At UnitedHealth's May 2 meeting, the **California Public Employees' Retirement System** (CalPERS) and **Minnesota's Board of Investment** opposed the reelection of two compensation committee members. Those directors received a 28 percent withhold vote, as compared with the less than 3 percent opposition when they last ran three years ago.

CalPERS and the Council of Institutional Investors have asked companies to explain how they determine the timing of option grants and to disclose if their executive pay practices are under investigation. In a June 7 letter to 24 firms, CalPERS urged directors to:

- Conduct an independent investigation into backdating allegations.
- Publicly disclose all findings from both internal and external investigations.
- Develop and disclose in public financial statements and proxy statements a new board policy for the determination of all option grant dates.
- Refrain from using any company resources to satisfy the tax and legal liability for executives implicated for wrongdoing related to the backdating of options.
- Commit to have the company's external auditor ratified by shareowners annually.

CalPERS sent its letter to: Affiliated Computer Services, **Altera**, **American Tower**, Analog Devices, Brooks Automation, **Caremark Rx**, Comverse Technology, **F5 Networks**, Jabil Circuit, **KLA-Tencor**, **Maxim Integrated Products**, McAfee, **Meade Instruments**, **Medarex**, **Openwave Systems Power Integrations**, **RSA Security**, SafeNet, Semtech, **Sepracor**, **Sycamore Networks**, **Trident Microsystems**, UnitedHealth, and Vitesse Semiconductor.

In addition, the AFL-CIO has sent letters to the compensation committee chairs at **Countrywide** and seven other firms, asking them to disclose if any option grants were improperly timed and to adopt new safeguards.

AFL-CIO Secretary-Treasurer Richard Trumka, in his June 13 letter, urged compensation committees to grant options on predetermined dates that are at least 30 days from earnings announcements, to set grant dates independently from executives, and to avoid granting options for executives and directors at the same time. He also urged firms to consider replacing options with stock grants that vest after performance goals are met.

The labor federation also sent its letter to **Occidental Petroleum**, **American Express**, **Cardinal Health**, **Eli Lilly**, **McGraw-Hill**, **Proctor & Gamble**, and **U.S. Bancorp**.

On June 7, the AFL-CIO called on the SEC to address stock option grants as it finalizes new executive compensation disclosure rules. The **CFA Centre for Financial Market Integrity**, in a May 30 letter, urged the SEC to require the disclosure of:

- The compensation committee's meeting dates for the preceding year.
- The dates when the committee plans to make share-based awards.
- Whether any grants were made on other dates.
- Whether any grant dates were selected to take advantage of the pending release of material information.
- Whether any executives were permitted to select or recommend grant dates for their options.

"The intent of these disclosures is to enable shareholders to hold boards accountable for improper behavior," the CFA Centre noted.

On June 8, SEC Chairman Christopher Cox said his agency will require firms to "release all information related to their [stock option] decisions," including the rationale for those grants and dates when the options were priced, according to news reports. "We expect this to be written in plain English so every investor can understand it," Cox said in a speech to financial journalists. "No shareholder should need a machete and a pith helmet to find out how much the CEO makes."

U.S. Senator Charles Grassley, who chairs the Senate Finance Committee, said he hoped that the SEC and the Justice Department "are taking a hard look at this practice." In a June 13 press release, Grassley said, "I've asked the Justice Department to let me know whether the tax laws on the books are adequate to rein in and prosecute stock option backdating. If the tax laws are inadequate, I want to beef them up."

ISS Recommendations

As institutional investors press companies to overhaul their option grant policies, ISS recommends the following best practices for shareholders and boards to consider:

- Adopt "blackout" periods to preclude stock grants when company executives have material, non-public information in hand. Similar rules now apply to stock purchases and sales by insiders.
- Adopt fixed grant date schedules that provide for grants on a periodic basis (monthly, quarterly, or annually), along with rules for the establishment of option exercise prices on such grant dates.
- Refrain from making grants on these fixed dates when executives have market-moving news.
- Disclose the rationale for grants on a certain date, explaining why the compensation committee chose that date over other possible dates.
- File Form 4 reports on option grants promptly with the SEC. Not all firms file these reports within the required two business days.

In addition, ISS will be reviewing the issue during its policy review process this year. ISS is tracking companies that have disclosed option probes and will flag these concerns in future research reports. ISS will consider how companies have responded to these option inquiries when advising investors on director elections and stock incentive plans.

Conclusion

The options timing scandal is the latest reminder that boards at many U.S. companies still have much work to do to ensure that stock options and other forms of compensation serve to align the interests of executives with those of shareholders. While the SEC's proposed pay disclosure rules should lead to greater transparency, it will be up to investors to help make sure that directors are using company resources wisely to encourage executives to achieve greater value for shareholders.

About the Authors

This report was prepared by Director of Publications Ted Allen and Managing Editor Subodh Mishra. Contributors include: Senior Vice President Martha Carter, Executive Vice President Patrick McGurn, Vice President Stephen Deane, Vice President Carol Bowie, Director Christopher Young, Compensation Research Manager Valerie Ho, Governance Research Analyst Rosanna Landis Weaver, and Staff Writer L. Reed Walton.

Additional Resources

For more background on option timing, please see Professor Lie's faculty Web site:

<http://www.biz.uiowa.edu/faculty/elie/> and his 2005 paper on this issue:

<http://www.biz.uiowa.edu/faculty/elie/Grants-MS.pdf>

To review the Merrill Lynch report, click here: <http://rsch1.ml.com/9093/24013/ds/59195424.PDF>

To review the CalPERS letter, click here:

<http://www.calpers.ca.gov/eip-docs/about/press/news/invest-corp/options-backdating.pdf>

To read the CII letter, go to: <http://www.cii.org/executive/index.htm>

To review the CFA Centre's letter to the SEC, go to: <http://www.sec.gov/rules/proposed/s70306/jcallen053006.pdf>

To see Senator Grassley's statement, go to:

<http://www.senate.gov/~finance/press/Gpress/2005/prq061306.pdf>

For more coverage of option timing, see the June 9 and June 16, 2006, issues of Governance Weekly:

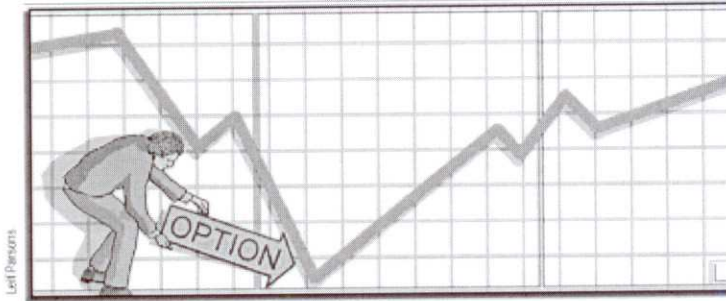
<http://www.governanceanalytics.com/>

To read The Wall Street Journal's (subscription required) coverage of this issue, go to:

http://online.wsj.com/page/2_1227.html

Buy Low

Certain executives have repeatedly received stock options on favorable dates—just ahead of sharp gains in the price of the company stock. Below, the number of option grants six executives received between roughly 1995 and 2002 and the odds—by a Wall Street Journal analysis—that such a favorable pattern of grants would occur by chance. Charts show three especially propitious grants to each executive, and what the stock did 2 months before the grant and what it did 2 months after.



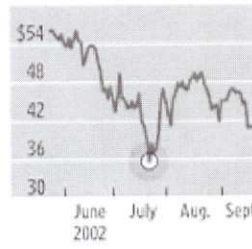
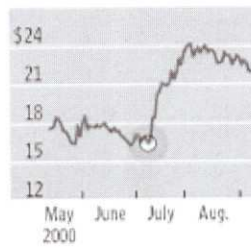
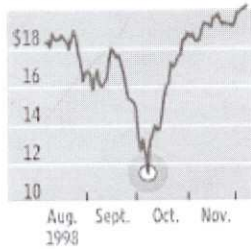
Examples of options granted

Stock prices adjusted for splits

Date of grant

Company's response

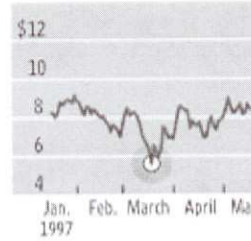
Jeffrey Rich
Affiliated Computer Services, former chief executive



Mr. Rich said no grants were backdated, called his favorable dates "blind luck." Company spokeswoman said, "We did grant options when there was a natural dip in the stock price." Mr. Rich stepped down as chief executive last fall.

Total grants: **6**
Odds:
About 1 in 300 billion

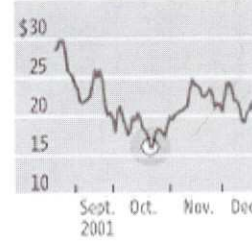
Louis Tomasetta
Vitesse Semiconductor, president and chief executive



Mr. Tomasetta said the grants were "approved by the board and the price set at the close of the day of approval." Alex Daly, member of the board compensation committee, said there was "nothing extraordinary" about grant timing.

Total grants: **9**
Odds:
About 1 in 26 billion

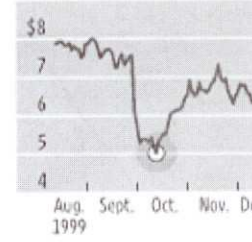
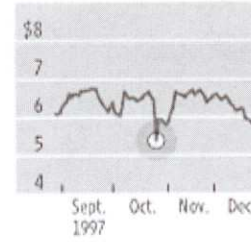
Kobi Alexander
Converse Technology, chairman and chief executive



Company said its board has begun a review of past options practices, including "the accuracy of the stated dates of options grants." As a result, it expects to have to restate financial results.

Total grants: **8**
Odds:
About 1 in 6 billion

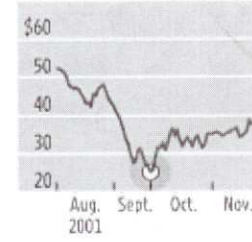
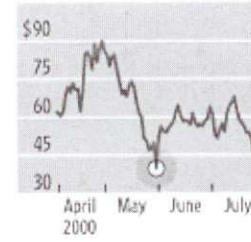
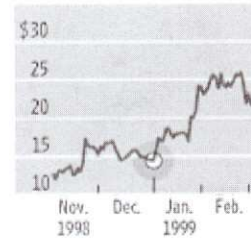
William McGuire
UnitedHealth Group, chairman and chief executive



William Spears, a director, said the Oct. 13, 1999, grant was concurrent with signing of CEC multiyear employment contract. "The price of the stock being at a depressed level gave us all an incentive to get options to management," wrapping up negotiations briskly.

Total grants: **12**
Odds:
At least 1 in 200 million

Robert Therrien
Brooks Automation, former chief executive



Company declined to explain grant timing. Finance chief Robert Woodbury said company is revamping policy to give options at same time each year. Mr. Therrien stepped down as CEO in 2004 and as chairman this month.

Total grants: **7**
Odds:
About 1 in 9 million

Timothy Main²



Company said it did not