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No Golden Egg for Stocks

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Oil rose to its best level since Oct. 2, gold established its highest level since June 1997 and the corporate news was heavily weighted to the negative. In a nutshell, that's everything you need to know about how stocks fared on Wednesday.

For fans of detail, the **Dow Jones Industrial Average** fell steadily throughout the session, ending down 1% to 8447.35, although off its earlier low of 8407.72. Similarly, the **S&P 500** closed down 1.3% to 891.12 after having traded as low as 887.82. The **Nasdaq Composite** shed 2.2% to 1361.50 vs. its nadir of 1355.60.

The Comp was relatively weak largely because of weakness in semiconductor stocks following a much-wider-than-expected loss from **Micron Technology** (MU:NYSE - news - commentary) , which tumbled 22.5%. The Philadelphia Stock Exchange Semiconductor Index fell 7.1% to 297.80, breaking the psychologically significant 300 barrier.

Stock proxies were further waylaid by lackluster results from **FedEx** (FDX:NYSE - news - commentary) , which dipped 1.3%; warnings by **Activision** (ATVI:Nasdaq - news - commentary) , down 19.3%, and **Blockbuster** (BBI:NYSE - news - commentary) , which fell 32.3%; and **Bank of New York** (BK:NYSE - news - commentary) , down 15.1%, announcing it will set aside $390 million to cover losses from aircraft lease contracts with **UAL** (UAL:NYSE - news - commentary) .

Even **Halliburton** (HAL:NYSE - news - commentary) shed 4.2% despite announcing a settlement its asbestos claims litigation. Elsewhere, **Conseco** (CNC:NYSE - news - commentary) submitted the third-largest bankruptcy filing in U.S. history.

Gold Bug Heaven

Meanwhile, **J.P. Morgan** (JPM:NYSE - news - commentary) fell 4.1% (vs. a 1.7% decline for the Philadelphia Stock Exchange/KBW Bank Index) and **Barrick Gold** (ABX:NYSE - news - commentary) dipped 0.6% after a gold dealer filed suit charging the firms with conspiring to suppress the price of gold and of violating antitrust laws.

"Barrick dismisses allegations of antitrust behavior as ludicrous and without merit and will vigorously pursue its legal rights and remedies," a company spokesman said late Wednesday. "Barrick hasn't had the opportunity to review the complaint in detail but the press release [announcing the lawsuit] contains numerous factual inaccuracies and defamatory statements."

J.P. Morgan did not respond to multiple calls seeking comment.

The suit was filed in the U.S. District Court of Eastern Louisiana by New Orleans-based Blanchard & Co., the largest retail dealer of gold coins and bullion in the U.S.

The lawsuit claims Barrick used off balance sheet accounting to dump billions of dollars worth of gold on the market in an effort to suppress the price of gold and weaken its competitors. Among other (unnamed) bullion banks, J.P. Morgan is accused of providing "crucial assistance" to this effort, according to Blanchard.

"The same type of accounting maze that hid Enron's debts made it possible for Barrick to manipulate the price of gold without the checks and balances that come from public scrutiny," Blanchard's chief executive officer, Donald Doyle, said in a statement. The lawsuit also claims the J.P. Morgan-enabled efforts by Barrick to depress gold prices "irreparably harmed" its business by dampening demand for its product and leaving it holding bullion that is worth less than it otherwise would be.

Blanchard's press release makes much of how J.P. Morgan and Barrick allegedly did all this in private, which prompts the question: How does Blanchard know about it and what kind of evidence has it compiled?

To that point, a Blanchard spokesman referred me to the company's request for an injunction, a copy of which is available at www.savegold.com.

The filing describes how Barrick grew from a relatively small mining company in 1983 to its current status as the world's second-largest gold producer, largely via acquisition. This transformation was chiefly the result of Barrick's "Premium Gold Sales Program," which the lawsuit describes as "unlike any hedging program as that term is commonly understood."

The program contains both highly favorable financial terms provided by J.P. Morgan and provisions allowing Barrick to "indefinitely" postpone the date it has to deliver gold to repay what it has borrowed for the purpose of hedging, according to the complaint. "Barrick, in combination with J.P. Morgan and other bullion banks, can dump millions of ounces of tangible central bank gold into the spot market at any time without risking the company's financial future," the filing alleges. "Such conduct is highly favorable to Barrick, weakening its competitors and allowing it to acquire additional [gold mining] reserves at bargain prices."

The suit also alleges Barrick executives made bullish comments about gold over the years even as they were increasing their employment of this program.

The notion that Wall Street firms (led by J.P. Morgan) have conspired with gold hedgers (led by Barrick) to suppress the price of gold is something that's been discussed openly in gold circles for some time now. But concrete evidence has been lacking. Whether Blanchard's case is sufficient to hold up in court remains, of course, to be seen.

On a seemingly unrelated note, I was speaking with Michael Painchaud, director of research at Market Profile Theorems in Seattle yesterday, and he made an observation that seems potentially prescient in light of this lawsuit. "Right now we're seeing financials scoring at lower end of the normal range" in terms of insider buying, Painchaud said. "We're looking over our shoulder that there may be some big problem here in this area down the road. It's an area of concern for us."

Another scandal and more lawsuits are certainly the last thing financial firms, most notably J.P. Morgan, need at this juncture.

Parting Thoughts

Then again, the lawsuit buttresses Blanchard's stated position that it "advised our clients to avoid gold like the plague until such time as the free market laws of supply and demand were allowed to dictate the price," according to their release.

To that point, I'd like to reprise what Jean-Marie Eveillard, manager of the $97 million First Eagle SoGen Gold fund, has often said when I've asked about this topic: Any attempt to manipulate gold (or anything else) will ultimately prove futile *if the fundamentals support* a rise in the asset in question.

Notably, the price of gold rose 1.4% to $342.70 per ounce Wednesday and oil rallied 1.1% to $30.44 per barrel amid rising concern about prospects for war with Iraq, after President Bush expressed "concern about omissions in the [weapons] declaration."

Meanwhile, the price of the benchmark 10-year Treasury note rose 23/32 to 99 23/32, its yield falling to 4.03%. Even the U.S. Dollar Index managed a meek rise, suggesting Wednesday was a day for "safe havens" of varying stripes and further proof stocks don't qualify in that category.

Aaron L. Task writes daily for TheStreet.com. In keeping with TSC's editorial policy, he doesn't own or short individual stocks, although he owns stock in TheStreet.com. He also doesn't invest in hedge funds or other private investment partnerships. He invites you to send your feedback to Aaron L. Task.