

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 72518 / July 2, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15958

In the Matter of

CARMELA BROCCO,

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”), deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Carmela Brocco (“Respondent” or “Brocco”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over her and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. These proceedings arise out of violations of Rule 105 of Regulation M of the Exchange Act by Brocco, which she committed while trading for Jeffrey W. Lynn ("Lynn"), and Lynn's proprietary trading firm, Worldwide Capital, Inc. ("Worldwide"). Rule 105 prohibits buying any equity security that is the subject of a covered public offering from an underwriter or broker or dealer participating in the offering after having sold short the same security during the restricted period as defined therein. On twelve occasions from May 29, 2009 through March 29, 2011, Brocco, on behalf of Worldwide and Lynn, bought offering shares from an underwriter or broker or dealer participating in a follow-on or secondary public offering after having sold short the same security during the restricted period. These violations collectively resulted in ill-gotten gains to Brocco of \$215,233.

Respondent

2. Brocco, age 40, is a resident of East Meadow, New York. From approximately 2002 to 2010, Brocco worked for Worldwide, initially as the office manager, and, beginning in 2005, as office manager and trader.

Other Relevant Individual and Entity

3. Worldwide is a Delaware corporation with its principal office in Nassau County, New York, and Lynn's alter ego. Lynn formed Worldwide in 1993 for the purpose of investing and trading his own capital. It has never been registered with the Commission in any capacity.

Legal Framework

4. Rule 105 makes it unlawful for a person to purchase equity securities in a covered public offering from an underwriter or broker or dealer participating in the offering if that person sold short the security that is the subject of the offering during the restricted period defined in the rule, absent an exception. 17 C.F.R. § 242.105; see Short Selling in Connection with a Public Offering, Exchange Act Release No. 56206, 72 Fed. Reg. 45094 (Aug. 10, 2007). The Rule 105 restricted period is the shorter of the period: (1) beginning five business days before the pricing of the offered securities and ending with such pricing; or (2) beginning with the initial filing of a registration statement or notification on Exchange Act Form 1-A or Form 1-E and ending with pricing.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

5. Rule 105 applies irrespective of the short seller's intent in effecting the short sale. "The prohibition on purchasing offered securities . . . provides a bright line demarcation of prohibited conduct consistent with the prophylactic nature of Regulation M." Short Selling in Connection with a Public Offering, 72 Fed. Reg. at 45096. The Commission adopted Rule 105 in an effort to prevent manipulative short selling prior to a public offering and, therefore, "to foster secondary and follow-on offering prices that are determined by independent market dynamics and not by potentially manipulative activity." Id. at 45094.

Brocco's Violations of Rule 105 of Regulation M

6. Brocco was one of a number of individuals whom Lynn selected to trade his capital. Under the terms of Brocco's arrangement with Lynn, Lynn funded Brocco's trading and the two shared equally in the profits and losses generated by her trading.

7. At all relevant times, Brocco's and Worldwide's principal investment strategy was to obtain the maximum allocations possible for short-term trading in initial public offerings as well as follow-on and secondary offerings. Accordingly, Brocco created numerous "alter ego" corporate entities for the purpose of purchasing offering shares through accounts in their names at large broker-dealers. By contrast, most of Brocco's sales of equity securities, including short sales, were executed through an account in Worldwide's name at one of several smaller broker-dealers that catered to small institutional customers and professional traders. Regardless of the account in which the purchase or sale was executed, all of Brocco's trades were funded by Lynn, and cleared and settled in a Worldwide master account at Worldwide's prime broker.

8. From May 29, 2009 through March 29, 2011, Brocco violated Rule 105 in connection with twelve separate secondary or follow-on offerings, in each case by selling short shares of the issuers during the restricted period and then purchasing offering shares. The twelve offerings were:

- a. Terex Corp.'s May 2009 offering;
- b. Penn Virginia GP Holdings, L.P.'s September 2009 offering;
- c. Citigroup Inc.'s December 2009 offering;
- d. Strategic Hotels & Resorts, Inc.'s May 2010 offering;
- e. Wabash National Corporation's May 2010 offering;
- f. Cypress Sharpridge Investments' June 2010 offering;
- g. Government Properties Income's August 2010 offering;
- h. Petroleo Brasileiro's September 2010 offering;
- i. Stillwater Mining Company's December 2010 offering;
- j. MarkWest Energy Partners LP's January 2011 offering;
- k. American Capital Agency Corp.'s January 2011 offering; and
- l. Energy Transfer Partners, LP's March 2011 offering.

9. As a result of these violations, Brocco received ill-gotten gains totaling \$215,233, her share of the ill-gotten gains produced by the violative trades. Those ill-gotten gains consisted of: (a) the difference between the proceeds from the improper restricted period short sales, and the amounts paid on an equivalent number of shares received in the offerings of the same issuer's shares; (b) in those offerings where the number of shares Brocco received in the offerings exceeded the number of shares she sold short during the restricted period, the discount she obtained to the market price of the issuer's shares; and (c) in certain offerings where the offering price exceeded the price at which Brocco had sold the stock short during the restricted period, the additional loss she avoided by purchasing the offering shares at a discount to the market price.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Brocco cease and desist from committing or causing any violations and any future violations of Rule 105 of Regulation M of the Exchange Act;

B. Brocco shall pay disgorgement of \$215,233, prejudgment interest of \$27,056, and a civil monetary penalty in the amount of \$129,140 (for a total of \$371,429) to the Securities and Exchange Commission, for transmission to the United States Treasury. Payment shall be made in the following installments: (i) \$100,000 shall be paid within twenty-one (21) business days following the date on which this Order is entered; (ii) \$20,000 shall be paid within one hundred and eighty (180) days following the date on which this Order is entered; and (iii) \$251,429 shall be paid within three hundred and sixty (360) days following the date on which this Order is entered. If payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement, prejudgment interest, and civil penalties, plus any additional interest accrued pursuant to SEC Rule of Practice 600 or pursuant to 31 U.S.C. § 3717, shall be due and payable immediately, without further application. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341

6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Carmela Brocco as Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Andrew M. Calamari, Regional Director, Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, NY 10281.

By the Commission.

Jill M. Peterson
Assistant Secretary