

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 97084 / March 9, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21337

In the Matter of

RALPH BARTEL,

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 Ralph Bartel (“Bartel” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “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 him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, 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 involve violations of the beneficial ownership and transaction reporting requirements under the Exchange Act by Bartel arising out of Bartel's beneficial share ownership in NASDAQ-listed Wilhelmina International, Inc. ("WHLM"). By the end of 2016, Bartel and an entity that he indirectly beneficially owns, Azzurro Capital LLC ("Azzurro"), together held over 9.16% of the common stock of WHLM. Bartel's obligation to file public disclosures of his shareholdings in WHLM first arose no later than July 2014, when his and Azzurro's aggregate holdings exceeded 5% of WHLM's outstanding common stock. Nevertheless, Bartel did not disclose any WHLM shareholdings until December 14, 2016, when he filed a Schedule 13G disclosing only the shares held in his own name, and at no point filed a Schedule 13D as required under Section 13(d) of the Exchange Act. Additionally, Bartel's obligations to file beneficial ownership reports under Exchange Act Section 16(a) began on May 19, 2017, when his WHLM holdings, when combined with those held by Azzurro, exceeded 10%. However, Bartel failed to timely and accurately disclose under Section 16(a) transactions made by Azzurro in which he had an indirect pecuniary interest.

2. As a result of the conduct described above, Bartel violated Sections 13(d), 13(g), and 16(a) of the Exchange Act and Rules 13d-1(a) and (d), and 16a-3 thereunder.

Respondent

3. **Ralph Bartel ("Bartel")**, 57, is a German citizen who resides in Ascona, Switzerland. He is the ultimate beneficial owner of Azzurro.

Other Relevant Entities

4. **Azzurro Capital LLC ("Azzurro")** is a privately-held Delaware limited liability company with its principal place of business in Wilmington, DE. Azzurro was formed in March 2011 for the purpose of acting as the nominee of Azzurro Capital Inc., which is Azzurro's sole member.

5. **Azzurro Capital Inc.** is a privately-held Cayman Islands corporation founded in January 2008. The Ralph Bartel 2005 Trust, of which Bartel is the sole beneficiary, is the controlling shareholder of Azzurro Capital Inc. At all relevant times, Azzurro Capital Inc. had in place an independent corporate director.

6. **Wilhelmina International, Inc. ("WHLM")** is a Delaware corporation with its principal place of business in New York, NY. WHLM's primary business is fashion model management and related business services. At all relevant times, WHLM's common stock has

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.

been registered with the Commission pursuant to Section 12(b) of the Exchange Act and traded on the NASDAQ capital market exchange under the ticker symbol “WHLM”.

Facts

A. The Structure of Relevant Bartel Entities

7. Bartel in 2005 created the Ralph Bartel 2005 Trust (the “Trust”), a British Virgin Islands entity. Bartel is the sole beneficiary of the Trust and, since the Trust’s inception, has had the power to replace the trustees thereof and to revoke the Trust. The Trust at all relevant times has held 100% of the shares of Azzurro Capital Inc., a Cayman Islands entity. Azzurro, a privately-held Delaware limited liability company, was formed in 2011 to act as nominee for Azzurro Capital Inc. in order to open a U.S. brokerage account in which Azzurro has, among other transactions, acquired WHLM shares. Although the corporate director of Azzurro Capital Inc. had authority over investment decisions, at all relevant times Bartel was the sole signatory of the Azzurro brokerage account and held an indirect pecuniary interest in Azzurro’s holdings and transactions.

8. Bartel was the beneficial owner of WHLM shares held by Azzurro for purposes of the Commission’s beneficial ownership disclosure rules. This is because at all relevant times Bartel had the right to control the Trust through his power to remove the trustees of the Trust and to revoke the Trust, which wholly owned Azzurro via its ownership of Azzurro Capital Inc.

B. Bartel and Azzurro Purchase WHLM Shares

9. Bartel first caused Azzurro to purchase WHLM shares in an Azzurro brokerage account no later than August 14, 2013, eventually accumulating in that account by February 4, 2014 approximately 4.99% of the outstanding shares of WHLM.

10. Bartel’s beneficial WHLM share ownership first exceeded 5% starting on July 14, 2014. This was attributable not to an acquisition by Bartel or Azzurro – neither transacted in WHLM shares between February and December 2014 – but to a 20:1 reverse stock split by WHLM on that date, which eliminated fractional shares and reduced the number of shares outstanding, thereby increasing Bartel’s percentage beneficial ownership thereof. As detailed in Part III.C., below, this triggered Bartel’s obligation to publicly disclose his beneficial ownership of WHLM shares. Bartel subsequently caused Azzurro to sell 431 WHLM shares on December 26, 2014, *i.e.*, a sufficient number to drop Bartel’s beneficial holdings below the 5% threshold.

11. Between November 2015 and March 2016, Bartel acquired further WHLM shares in a series of transactions through a personal brokerage account in Switzerland. The first of these transactions, on November 19, 2015, when combined with the shares then held by Azzurro, caused Bartel’s beneficial ownership of WHLM to again exceed 5% of the outstanding shares of the company.²

² Bartel’s beneficial WHLM ownership continued to exceed 5% until Bartel disposed of the entirety of his WHLM shareholdings in 2021.

12. Bartel subsequently engaged in the following transactions in WHLM shares prior to his first beneficial ownership disclosure filing with the SEC on December 14, 2016:

- On March 1, 2016, Bartel caused Azzurro to start acquiring additional WHLM shares using a US-based Azzurro account, resulting in Azzurro's holdings of WHLM exceeding 5% of the company's outstanding shares.
- On March 5, 2016, Bartel requested that the Trust make a distribution to him of 250,000 WHLM shares, representing approximately 4.32% of all outstanding WHLM shares. Azzurro Capital Inc. then declared a dividend to the Trust, and the Trust provided instructions to transfer the shares directly from Azzurro's account to Bartel's personal Swiss-based brokerage account. This transfer did not ultimately occur until March 18, 2016, at which point Bartel's aggregate holdings of WHLM in the Azzurro account and his personal account had reached 6.33% of the company's outstanding shares through additional secondary market stock purchases.
- From March 2016 to November 2016, Bartel and Azzurro continued to acquire WHLM shares in both the Azzurro U.S.-based account and Bartel's Swiss-based personal account.
- On May 31, 2016, Bartel's personal account holdings of WHLM reached 5.08% of the outstanding shares of the company, shortly after which Bartel sold 20,000 WHLM shares to Azzurro, resulting in WHLM holdings in his personal account once again dropping below the 5% mark on June 3, 2016.
- In two separate transactions on November 18, 2016 and again on December 13, 2016, Bartel purchased 20,000 WHLM shares from Azzurro.

In total, these transactions brought Bartel's aggregate WHLM shareholdings with Azzurro to 9.16% of WHLM shares outstanding.

13. After his initial beneficial ownership disclosure filing with the SEC, and before consolidating an ownership stake of approximately 17.7% of all outstanding WHLM shares in a personal U.S.-based account on November 19, 2018, Bartel continued to acquire shares in WHLM in his personal account and Azzurro continued to acquire shares in its U.S.-based brokerage account.

14. Specifically, in a series of secondary market transactions between June 5, 2017 and August 21, 2017, Azzurro purchased 18,539 WHLM shares. Bartel then began acquiring WHLM shares in his personal account, accumulating in that account by March 23, 2018, 138,000 WHLM shares, or 2.56% of all outstanding shares. In May 2018, Bartel purchased all of Azzurro's WHLM holdings. By November 19, 2018, Bartel owned 931,149 WHLM shares in his personal account, representing a 17.68% stake in the company.

C. Bartel's Ownership Disclosure Filings With the SEC

Exchange Act Section 13(d) and Section 13(g) Disclosures

15. As noted in Part III.B, above, Bartel was first required to disclose his beneficial ownership in WHLM shares following a reverse stock split on July 14, 2014 that caused a reduction in the aggregate number of WHLM shares and increased Azzurro's WHLM ownership over the 5% threshold.³ Bartel, however, failed to file a Schedule 13D, or a Schedule 13G in lieu thereof, as required by Section 13(d)(1) and corresponding Rule 13d-1 within 10 days of acquiring more than 5% of the WHLM shares. In December 2014, Bartel caused Azzurro to sell sufficient WHLM shares in December 2014 to drop his beneficial ownership below the 5% threshold.

16. On November 19, 2015, Bartel's acquisition of WHLM shares through a personal brokerage account, when combined with the shares held by Azzurro, again brought his beneficial ownership of WHLM over 5%. Bartel nevertheless failed to file a beneficial ownership report for WHLM until over a year thereafter, on December 14, 2016. This initial disclosure was not only untimely⁴ but incomplete, as it did not fully reflect Bartel's complete beneficial ownership interest in WHLM. Upon thereafter consolidating most of his WHLM shares into a US-based personal brokerage account, Bartel filed an amendment on Schedule 13G on May 22, 2017,⁵ which also failed to correctly reflect Bartel's complete beneficial holdings as it did not account for shares still held by Azzurro. Subsequent to this inaccurate filing, and as detailed in Part III.B, above, both Bartel and Azzurro continued to purchase WHLM shares, with Bartel's total beneficial holdings exceeding 15% on August 9, 2017. Bartel did not fully disclose his WHLM beneficial ownership shareholdings on Schedule 13G until February 15, 2018:

³ Bartel's beneficial ownership reporting obligation under Exchange Act Section 13(d) was triggered at this point even though Azzurro's increase in WHLM ownership over the 5% threshold did not occur as the result of a stock purchase. Under Rule 13d-5(a), a "person who becomes a beneficial owner of securities shall be deemed to have acquired such securities for purposes of section 13(d)(1) of the [Exchange] Act, whether such acquisition was through purchase *or otherwise*," (emphasis added), which in this case included the reduction in the aggregate number of WHLM shares as detailed above. The amount by which Bartel's beneficial ownership increased as a result of the reverse stock split, when added to the total amount of acquisitions made by Bartel during the preceding 12 months, made him ineligible to rely upon the Section 13(d)(6)(B) exemption.

⁴ The cover page of Bartel's initial Schedule 13G submission indicated that he was reporting beneficial ownership in reliance upon Rule 13d-1(c). In order to lawfully rely upon Rule 13d-1(c) to file a Schedule 13G in lieu of the Schedule 13D that was otherwise required under Section 13(d)(1) and corresponding Rule 13d-1(a), Bartel needed to have filed that Schedule 13G within 10 days of acquiring beneficial ownership in excess of 5% - something he failed to do.

⁵ Bartel at this point was required, and failed, to report his WHLM holdings on Schedule 13D.

Filing Date	Event Date	Shares Disclosed on Schedule 13G	Shares Owned by Bartel Directly	Shares Owned by Azzurro	Total Shares Beneficially Owned
Dec. 14, 2016	Nov. 17, 2016	306,425	306,425	186,533	492,988 (9.16%)
May 22, 2017	May 18, 2017	577,000	577,000	417	577,417 (10.73%)
February 15, 2018	December 27, 2017	915,915	130,000	789,915	915,915 (17.02%)

17. An individual who is required by Section 13(g)(1) and corresponding Rule 13d-1(d) to file a Schedule 13G must do so within 45 days after the end of the calendar year in which the filer first exceeds 5% ownership. Bartel never filed a Schedule 13G as required by Section 13(g)(1) and Rule 13d-1(d) when his beneficial ownership remained above 5% at the end of the 2015 calendar year. Bartel also was ineligible to file a Schedule 13G when he first did so on December 14, 2016 given that he became subject to Section 13(d)(1) on March 28, 2016 but failed to file the required Schedule 13D, or Schedule 13G in lieu thereof, within ten days of forfeiting the exemption that otherwise would have enabled him to remain subject to Section 13(g).

Exchange Act Section 16(a) Disclosures

18. On May 22, 2017, the same day that Bartel filed his first amendment on Schedule 13G, he also filed an initial statement of beneficial ownership on Form 3. He was required to do so after exceeding the 10% ownership threshold. As with Bartel's Schedule 13G filed on the same date, this filing only disclosed beneficial ownership of the 577,000 WHLM shares personally owned by Bartel, thereby omitting 417 WHLM shares contemporaneously held by Azzurro in which Bartel had a disclosable indirect pecuniary interest. Shortly thereafter, Bartel began filing on Form 4 statements of changes in his beneficial ownership in WHLM. However, these Form 4 filings only disclosed direct acquisitions by Bartel.

19. Between June 5, 2017 and August 21, 2017, Azzurro over twenty-six trading days purchased a total of 18,539 WHLM shares on the open market. Bartel did not report any of these transactions on Form 4 or subsequently on Form 5. On August 3, 2017, he purchased an additional 30,994 WHLM shares into his personal account in a private transaction. On the same day, he filed a Form 4 that disclosed the 30,994 share purchase, but incorrectly stated that he directly owned 816,909 WHLM shares. That total improperly aggregated the 30,994 shares he directly acquired with the 785,915 shares previously acquired by Azzurro, in which he held an indirect pecuniary interest.

Violations

20. As a result of the conduct described above, Respondent violated Sections 13(d)(1) and 13(g)(1) of the Exchange Act and Rules 13d-1(a) and 13d-1(d), respectively, which separately operate to require any person that has acquired, directly or indirectly, beneficial ownership or otherwise become a beneficial owner of more than five percent of a class of a registered equity security to file a statement with the Commission identifying, among other things, the identity of the

beneficial owner of the shares, the number and description of the shares in which such person has an interest, and the nature of such interest.

21. As a result of the conduct described above, Respondent violated Section 16(a) of the Exchange Act and Rule 16a-3 thereunder, which require every officer, director, and greater than 10% beneficial owner (collectively, referred to herein as “insiders”) to file initial statements of holdings in which the insider has or shares a direct or indirect pecuniary interest on Form 3 and to keep this information current by reporting transactions on Forms 4 and 5.

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 Bartel cease and desist from committing or causing any violations and any future violations of Sections 13(d)(1), 13(g)(1) and 16(a) of the Exchange Act and Rules 13d-1(a) and (d), and 16a-3 thereunder.

B. Respondent shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$100,000.00 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

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 hand-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 Ralph Bartel as a 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 Melissa R. Hodgman, Associate

Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE,
Washington, DC 20549-5553.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary