

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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SECURITIES AND EXCHANGE)		
COMMISSION,)		
)		
)	Civil Action No.:	
Plaintiff,)		
)		
v.)		
)		
ALEXANDER H.G. MASCIOLI and)	JURY TRIAL	
NORTH STREET CAPITAL, LP,)	DEMANDED	
)		
Defendants.)		
)		
)		
_____)		

COMPLAINT

Plaintiff Securities and Exchange Commission (“SEC”) alleges the following against Defendants Alexander H.G. Mascioli and North Street Capital, LP:

SUMMARY

1. This matter involves a fraudulent May 2012 offer made by Alexander H.G. Mascioli (“Mascioli”)—through his alter-ego, purported hedge fund North Street Capital, LP (“NSC”)—to acquire all the outstanding common stock of Winnebago Industries, Inc., a publicly-traded, New York Stock Exchange listed company (“WGO”) for approximately \$321 million.

2. In a May 2012 offer letter to WGO, Mascioli and NSC represented that NSC’s offer was a cash offer that was not contingent on any financing; NSC was prepared to proceed immediately; and NSC believed it could complete the WGO acquisition in two weeks. Each of these statements was materially false and misleading.

3. Neither Mascioli nor NSC had the financial wherewithal to complete such a transaction. In particular, Mascioli and NSC had few, if any, assets. Moreover, Mascioli and NSC had no financial backing for the proposed transaction and no reasonable prospects to secure financial backing for the proposed transaction.

4. At the time they made their offer, Mascioli and, through him, NSC knew or were reckless in not knowing that they did not have the financial wherewithal to consummate the WGO transaction. This notwithstanding, after the market close on May 17, 2012, Mascioli and NSC sent a copy of their WGO offer letter containing the knowingly or recklessly false statements of material fact to Bloomberg, a well-known business and financial news service. Bloomberg subsequently made the letter public.

5. After Mascioli's and NSC's fraudulent offer was made public, WGO's stock price and trading volume increased. In particular, in pre-market trading prior to the market open on May 18, WGO's stock price increased by approximately 15% and its trading volume increased dramatically. Moreover, at least one investor covered its existing short position in WGO and incurred losses.

6. Accordingly, the SEC brings this action alleging violations of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder, seeking permanent injunctive relief, civil penalties, disgorgement, an officer and director bar against Mascioli, and any other appropriate relief.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to Sections 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(e) and 78aa]. This Court is the proper venue for this action because many of the acts and practices alleged herein occurred within the District of

Connecticut, which is where Mascioli resided and operated NSC at the time the conduct herein alleged took place.

8. In connection with the conduct described in this Complaint, Mascioli and NSC directly or indirectly made use of the means or instrumentalities of interstate commerce, of the mails, of the facilities of a national securities exchange, and/or of the means and instrument of transportation or communication in interstate commerce.

DEFENDANTS

9. **Mascioli**, age 38, was a resident of Greenwich, Connecticut at all times relevant to the Complaint. He was also NSC's sole owner and managing partner during this time period.

10. **NSC** is a Delaware limited liability partnership formed by Mascioli on June 24, 2011. During the relevant time period, NSC was Mascioli's alter-ego, and Mascioli operated NSC either out of temporary office space or his residences, all of which were located in Greenwich, Connecticut.

FACTS

Mascioli's/NSC's Initial Offer to WGO

11. On April 10, 2012, Mascioli spoke with WGO's then-General Counsel ("WGO's General Counsel") by telephone and told him that NSC wanted to purchase WGO. Mascioli falsely told WGO's General Counsel that NSC was a two-year old hedge fund with private deal experience and claimed he had a bank and underwriter ready to complete a transaction.

12. After Mascioli contacted them, but before receiving any formal offer, WGO's management reviewed NSC's publicly-available website to learn additional information about Mascioli and NSC. NSC's website, created by Mascioli, contained various misrepresentations. For example, NSC's website emphasized NSC's specialization in leveraged buyouts ("LBO") even though NSC had never participated in an LBO. NSC's website also included statements

that its core markets were automotive, consumer retail, and business services even though NSC had not engaged in a single transaction in any of those markets. Mascioli and, through him, NSC knew or were reckless in not knowing that these statements were false and misleading.

13. On April 27, 2012, Mascioli, on behalf of NSC, emailed WGO an unsolicited offer letter, authored and signed by him on NSC's letterhead, to acquire all of WGO's common stock for \$10.25 per share, or nearly \$300 million.

14. Mascioli's April 27, 2012 email indicated that copies were being sent to a number of individuals, including a woman named Christina Stark at an NSC email account. Stark does not exist. Mascioli created the fictitious name of Christina Stark and an NSC email account bearing her name with the intent to give the false impression that NSC was a legitimate business with actual employees.

15. Later on April 27, 2012, WGO's General Counsel responded to Mascioli by email with a series of questions concerning NSC and its ability to complete such a large transaction, including requesting information about NSC's lender and proof of credit.

Mascioli's/NSC's Financial Condition and Attempts to Obtain Financing

16. Mascioli and, through him, NSC knew or were reckless in not knowing that they never had the financial ability to consummate the purported acquisition of WGO because they had few, if any, assets and significant liabilities. For example, bank and brokerage account statements obtained from the institutions where Mascioli and NSC held accounts demonstrate that they had virtually no assets in April and May 2012.

17. Around the time of the April 27, 2012 offer, Mascioli, on behalf of NSC, had been trying unsuccessfully to obtain financial backing for NSC's proposed WGO acquisition from two sources: (i) a major U.S. bank (the "Bank") and (ii) a WGO competitor (the "WGO Competitor").

18. After making his April 27, 2012 offer, Mascioli continued in these efforts. On May 3, 2012, Mascioli provided a Power Point presentation to certain of the Bank's employees. In the Power Point presentation, Mascioli and, through him, NSC knowingly or recklessly misrepresented that the CEO of the WGO Competitor was an NSC adviser as well as an important person on their WGO deal team.

19. The CEO of the WGO Competitor, however, had never worked for NSC, was not an NSC adviser, and was not part of NSC's WGO deal team. Rather, at this time, the CEO of the WGO Competitor had rebuffed Mascioli's efforts to persuade his company to be involved in the proposed WGO transaction. As a result, Mascioli's and NSC's statements in the Power Point presentation provided to the Bank were knowingly or recklessly false and misleading.

20. After the May 3, 2012 meeting, a Bank representative requested that Mascioli provide a financial model and an investment thesis describing NSC's proposed WGO transaction—both of which were prerequisites to any financing from the Bank. Mascioli and NSC never provided any such documentation.

21. Still with virtually no assets and no funding, on May 7, Mascioli, on behalf of NSC, replied by email to WGO's General Counsel with answers to WGO's April 27 questions. Mascioli's email included, among others, the following knowing or reckless misrepresentations of material fact concerning NSC and its business:

Misrepresentation	Truth
NSC is "a progressive investment firm that invests in middle-market companies with revenues ranging from \$10 million to \$800 million" capable of growing earnings at "a rate of at least 10% per annum."	NSC had not invested in any middle market companies.
NSC's "philosophy is to partner with talented management teams, provide them with access to world-class operating resources and patient capital, and develop positive, open and	There were no such partnerships between NSC and any management teams, and this language is copied verbatim from the website of a completely unrelated New York hedge fund

Misrepresentation	Truth
constructive relationships that foster long-term value creation.”	with assets under management of approximately \$1.6 billion.
“NSC manages a global-macro hedge fund that was launched in June 2011.”	NSC did not manage a global-macro hedge fund.
“This transaction is constructed as a ‘one-off’ with financing already arranged and structured specific to this deal . . . NSC has chosen [the Bank] as an underwriter.”	Mascioli and NSC had not arranged any financing, and no bank (or any other financial institution) had agreed to serve as an underwriter, for NSC’s purported WGO transaction.

The May 9 Offer

22. On May 9, 2012, WGO’s General Counsel responded to Mascioli’s May 7 email and rejected Mascioli’s and NSC’s April 27 offer.

23. Also on May 9, 2012, the CEO of the WGO Competitor emailed Mascioli to explain: (i) that the specific WGO transaction that Mascioli and NSC had outlined did not make sense for WGO’s Competitor; and (ii) that the CEO could not envision any other WGO transaction that would make sense for both NSC and the WGO Competitor.

24. In response to the CEO of the WGO Competitor, Mascioli, on behalf of NSC, stated that NSC had a private equity fund ready to take the WGO Competitor’s place in the WGO transaction, but that NSC would prefer to give the opportunity to the WGO Competitor. Mascioli and, through him, NSC knew that this statement was false and misleading, however, because there was no private equity firm ready to take the WGO Competitor’s place in any transaction.

25. Approximately four hours after the CEO of the WGO Competitor had affirmatively told Mascioli and NSC that his company had no interest in providing financial backing for the proposed transaction, and without having provided to the Bank even the basic documentation it required to evaluate their request for financing, Mascioli, again on NSC

letterhead, authored, signed, and sent to WGO a second offer letter to acquire the company with improved terms from the April 27, 2012 offer.

26. This time, Mascioli and NSC offered to purchase (in cash) all of WGO's shares for \$11 per share (a \$0.75 per share improvement), or approximately \$321 million. The \$11 per share represented a \$2.11 (or 23.7%) premium to WGO's closing price on May 8, 2012.

27. In the May 9, 2012 offer letter, Mascioli wrote on behalf of NSC that its offer was not conditioned on any financing requirement, that NSC was prepared to move forward immediately, and that NSC could complete the process in approximately two weeks. Mascioli and, through him, NSC knew or were reckless in not knowing that each of these statements was materially false and misleading.

28. At the time they made their May 9 offer, Mascioli's and NSC's financial condition had not changed from the time of their April 27 offer. Mascioli and NSC still had little or no assets and had significant liabilities; they could not consummate their offer to acquire WGO absent financing by a third party. Moreover, based upon their dealings with WGO's Competitor and the Bank, Mascioli and NSC had no reasonable basis to believe that they could obtain the approximately \$321 million in financing required to complete their offer for WGO.

29. On May 10, 2012, the day after Mascioli made NSC's improved offer to acquire WGO, a Bank representative emailed Mascioli stating that the Bank would not provide term loan financing and reiterated his prior requests for basic documentation to evaluate any financing possibility, including Mascioli's and NSC's financial model and investment thesis.

30. Mascioli, on behalf of NSC, responded to the Bank representative that NSC had engaged a prominent New York investment bank ("the Investment Bank") to assist in the transaction, and that NSC had responded to WGO with a revised offer. Mascioli and, through him, NSC knew or were reckless in not knowing that these representations were false because

the Investment Bank never had any customer or client relationship with NSC or Mascioli. Indeed, Mascioli and NSC never retained any financial or legal advisers to assist with their proposed \$321 million acquisition of WGO.

Publication of NSC's Fraudulent, May 9 Offer

31. Having not received a response to NSC's May 9, 2012 offer letter, after the market close on May 17, 2012, Mascioli, on behalf of NSC, emailed to Bloomberg a version of NSC's May 9, 2012 offer letter that he had modified to look like an NSC press release. The press release contained the same knowingly or recklessly false and misleading statements of material fact as Mascioli's and NSC's May 9, 2012 offer letter. On his email to Bloomberg, Mascioli again copied the fictitious Christina Stark at the NSC email address he created for her.

32. A few minutes after receiving the May 9, 2012 offer letter containing Mascioli's and NSC's false and misleading statements, Bloomberg posted it publicly on its website.

33. After Mascioli's and NSC's fraudulent offer was made public on May 17, 2012, WGO's stock price and trading volume increased. In pre-market trading on May 18, 2012, almost 700,000 WGO shares were traded. By contrast, in the four trading days prior to May 18, WGO had little to no volume in pre-market trading. Moreover, on May 17, WGO's stock closed at \$8.51 per share; when trading opened on May 18, however, WGO stock opened at \$9.81 per share, an almost 15% increase.

34. In pre-market trading on May 18, 2012, in reliance on the false and misleading statements contained in Mascioli's and NSC's offer for WGO, a New York hedge fund decided to cover the majority of a large short position it held in WGO and incurred losses in doing so.

35. Like WGO, in its efforts to research Mascioli and NSC, the hedge fund viewed the public website that Mascioli created for NSC.

36. Prior to the May 18, 2012 market open, WGO contacted the New York Stock Exchange, which halted trading in WGO's securities for approximately one hour to allow WGO to issue a press release. WGO's press release addressed NSC's May 9, 2012 offer, characterizing it as "highly conditional," noting "it ha[d] not received sufficient information to deem the offer as credible," and confirming that the WGO Board "[would] review any additional information relating to [NSC's offer] and respond in due course."

37. In regular market trading on May 18, 2012, over 3 million WGO shares traded, with WGO shares trading at a high of \$10 and a low of \$8.62 per share on that day. In contrast, WGO's trading volume during the prior three trading days ranged between 128,000 and 184,000 shares per day.

CLAIM

(Against All Defendants)

Violations of Exchange Act Section 10(b) and Rule 10b-5 thereunder

38. The SEC repeats and re-alleges paragraphs 1 through 37 above.

39. By reason of the conduct described above, Defendants Mascioli and NSC, directly or indirectly, by use of means or instrumentalities of interstate commerce or of the mails, or any facility of any national securities exchange, in connection with the purchase or sale of securities, knowingly or recklessly (i) employed devices, schemes, or artifices to defraud; (ii) made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and/or (iii) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person, including purchasers and sellers of securities, in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

PRAYER FOR RELIEF

WHEREFORE, the SEC respectfully requests that this Court:

A. Permanently enjoin Defendants Mascioli and NSC from violating, directly or indirectly, Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5];

B. Impose civil monetary penalties against Defendants Mascioli and NSC pursuant to Exchange Act Section 21(d) [15 U.S.C. § 78u(d)];

C. Permanently bar, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Mascioli from serving as an officer or director of any public company that has a class of securities registered pursuant to Exchange Act Section 12 [15 U.S.C. § 78l], or that is required to file reports pursuant to Exchange Act Section 15(d) [15 U.S.C. § 78o(d)];

D. Retain jurisdiction over this action to implement and carry out the terms of all orders and decrees that may be entered; and

E. Grant such other and further relief as the Court deems just and appropriate.

JURY DEMAND

The SEC hereby demands a trial by jury on all claims so triable.

Dated: March 13, 2014

/s/ John B. Hughes

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