

George S. Canellos
Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
New York Regional Office
3 World Financial Center
New York, NY 10281-1022
(212) 336-0080 (Brody)

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ DEC 07 2011 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK BROOKLYN OFFICE

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

GIUSEPPE PINO BALDASSARRE,
ROBERT MOUALLEM, and
MALCOLM STOCKDALE,

Defendants.

11 Civ. _____

COMPLAINT

CV 11 - 5970

ROSS, J.

PRELIMINARY STATEMENT

POHORELSKY, M.J.

Plaintiff Securities and Exchange Commission ("Commission"), for its Complaint against defendants Malcolm Stockdale ("Stockdale"), Giuseppe Pino Baldassarre ("Baldassarre"), and Robert Mouallem ("Mouallem") (collectively, "the Defendants") alleges as follows:

1. From at least October 2009 to April 2010, Baldassarre, Stockdale, and Mouallem engaged in a fraudulent scheme to manipulate the market for Dolphin Digital Media ("Dolphin"), a publicly-traded company that purports to develop internet safety technology.

2. Baldassarre, Dolphin's former President and Chief Executive Officer;

Stockdale, a Dolphin shareholder; and Mouallem, a registered representative, conspired to manipulate the market for Dolphin stock through matched trades and by bribing registered representatives (“RRs”) to purchase Dolphin common stock in accounts over which the RRs had trading discretion.

3. More specifically, Baldassarre and Stockdale entered into an agreement with an Individual (“Individual A”), whom they believed represented a group of RRs with trading discretion over the accounts of wealthy customers. Baldassarre and Stockdale promised to pay a 30% kickback to Individual A and the RRs he represented in exchange for the RRs buying up to 7 million shares of Dolphin stock for at least \$3 million through their customers’ accounts.

4. Between March 31 and April 6, 2010, and in accordance with the illicit arrangement, Mouallem, who was responsible for handling the sales, instructed Individual A to submit orders to buy a total of approximately 105,000 shares of Baldassarre and Stockdale’s Dolphin stock for a total of approximately \$38,100.

5. Mouallem gave Individual A detailed instructions concerning the size, price and timing of those orders. In this way, Mouallem was able to insure that almost all of Individual A’s purchase orders were matched with Mouallem’s sell orders at prices Mouallem predetermined.

6. Thereafter, Baldassarre paid Individual A bribes of approximately \$11,440 for those purchases.

VIOLATIONS

7. By virtue of their conduct, the Defendants violated Section 17(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. § 77q(a), Section 10(b) of the Securities

Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

JURISDICTION AND VENUE

8. The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) of the Securities Act, 15 U.S.C. § 77t(b), and Section 21(d) of the Exchange Act, 15 U.S.C. §§ 78u(d), seeking to permanently enjoin the Defendants from engaging in the transactions, acts, practices and courses of business alleged in this Complaint. The Commission also seeks a final judgment: (i) ordering the Defendants to disgorge their ill-gotten gains, if any, with prejudgment interest thereon; (ii) ordering the Defendants to pay civil monetary penalties pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3); (iii) prohibiting the Defendants from participating in an offering of penny stock pursuant to Section 20(g) of the Securities Act, 15 U.S.C. § 77t(g), and Section 21(d)(6) of the Exchange Act, 15 U.S.C. § 78u(d)(6); and (iv) prohibiting Baldassarre from serving as an officer or director of a public company pursuant to Sections 20(e) of the Securities Act, 15 U.S.C. § 77t(e), and 21(d)(2) of the Exchange Act, 15 U.S.C. § 78u(d)(2).

9. This Court has jurisdiction over this action pursuant to Sections 20(d) and 22(a) of the Securities Act, 15 U.S.C. §§ 77t(d) and 77v(a), and Sections 21(d) and 27 of the Exchange Act, 15 U.S.C. §§ 78u(d) and 78aa.

10. Venue in this District is proper pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act, 15 U.S.C. § 78aa, because certain of the transactions, acts, practices, and courses of business constituting the violations alleged

herein occurred within this District. For example, Baldassarre and Mouallem met in this district with Individual A to plan their illicit scheme.

11. The Defendants, directly or indirectly, have made use of the means or instruments of transportation or communication in interstate commerce, or of a means or instrumentality of interstate commerce, or of the mails, or of the facilities of a national securities exchange, in connection with the transactions, acts, practices and courses of business alleged in this Complaint.

DEFENDANTS

12. **Stockdale**, age 66 and a resident of Prince Edward Island, Canada, is the owner of Winterman Group Ltd., a Canadian limited liability company that purports to be a holding company involved in private equity investments and financial services.

13. **Baldassarre**, age 53 and a resident of Indialantic, Florida, was Dolphin's President from May 15, 2007 until March 20, 2009. Baldassarre was also Dolphin's Chief Executive Officer from May 15, 2007 until June 25, 2008.

14. **Mouallem**, age 56 and a resident of Boca Raton, FL is a registered representative at Garden State Securities, Inc., a broker-dealer registered with the Commission.

RELEVANT ENTITY

15. **Dolphin** is a Nevada corporation with its offices located in Coral Gables, Florida. Dolphin's stock began trading publicly on November 2, 2006, and at all relevant times, it was quoted on the OTC Bulletin Board. Dolphin's securities are registered with the Commission pursuant to Section 12(g) of the Exchange Act.

FACTS

16. In 2009 and 2010, Dolphin purported to develop internet safety technology.
17. According to a Form 10-Q for the quarterly period ended September 30, 2010 that Dolphin filed with the Commission on November 22, 2010, Dolphin had net losses for the nine months ended September 30, 2010 of \$2,627,365 and recorded an accumulated deficit of approximately \$30,156,891 as of September 30, 2010.
18. Currently and at all relevant times, Dolphin common stock qualified as a penny stock as it did not meet any of the exceptions from the definition of penny stock contained in Rule 3a51-1 of the Exchange Act.
19. On October 24, 2009, an individual ("CW") introduced Individual A to Baldassarre. Individual A represented himself to Baldassarre as a person who could arrange stock purchases by a group of RRs with discretion over the accounts of wealthy customers.
20. During this meeting on October 24, 2009, Baldassarre offered to pay Individual A a 30% kickback in exchange for the purchase of Dolphin stock by Individual A's group of RRs.
21. Following his meeting with Individual A and CW, Baldassarre arranged for CW to meet with Mouallem.
22. On January 11, 2010, CW met with Mouallem. During this meeting, Mouallem told CW that Mouallem was the account representative for several accounts owned by Stockdale and Baldassarre at Garden State Securities.
23. During the January 11 meeting, Mouallem also told CW that Baldassarre and Stockdale planned to transfer approximately 7 million shares of Dolphin stock into brokerage accounts at Garden State Securities to be sold to the brokerage accounts of Individual A's

group of RRs.

24. During the January 11 meeting, Mouallem told CW that Mouallem would “facilitate” the purchase of these Dolphin shares by Individual A’s group of RRs. Mouallem told CW: “I’m gonna take care of everything on my end. I will have stock available to sell. I will have it at the right place at the right time.”

25. During the January 11 meeting, Mouallem agreed to a test transaction to ensure that the matched trades were executed smoothly. Mouallem asked that Individual A purchase 100,000 shares of Dolphin stock as part of the test.

26. During the January 11 meeting, Mouallem explained that he would coordinate the offers through his contact at the market maker Finance 500, Inc. (“FANC”). Mouallem proposed to tell FANC to offer an agreed number of shares of Dolphin stock at the pre-determined price so that Individual A’s bid would be matched with Mouallem’s offer via FANC.

27. During the January 11 meeting, Mouallem told CW that he expected to be compensated in cash for his part of the scheme, saying: “[L]et me put it to you this way. . . I meet Pino [Baldassarre] or you guys or somebody one day, and all of a sudden I find an envelope in my car, oh well, I found an envelope in my car . . . I can’t do anything with stock . . . if you so happen to lose money or something and I find it, ok.”

28. On February 26, 2010, CW introduced Mouallem to Individual A during a telephone conversation. Mouallem told CW and Individual A that 1.5 million shares of Dolphin stock had been transferred to Baldassarre’s and Stockdale’s accounts. Mouallem also said that those shares were ready to be sold and that he expected to get an additional 6 million shares within a month or two.

29. During the February 26 conversation, Individual A told Mouallem that Individual A charged 30% because 23% would be paid to his RRs in exchange for purchasing the stock in discretionary customer accounts.

30. During the February 26 conversation, Individual A said: "If a broker is putting a customer into this . . . he needs to get paid because that's the only reason he's putting the customer into this thing."

31. During the February 26 conversation, Individual A told Mouallem that to ensure that Individual A's RRs were purchasing the stock that Mouallem wanted to sell, Individual A would call Mouallem prior to purchasing the stock to determine the low offer price at which Mouallem would offer the agreed amount of stock. Individual A's RRs would then place a market order to purchase the stock at the low offer price. Mouallem agreed to this procedure.

32. On March 26, 2010, Individual A spoke with Baldassarre, Stockdale and CW over the telephone. Baldassarre and Stockdale told Individual A that they had 7 million free trading shares in accounts managed by Mouallem. Individual A explained that he would do a test transaction over four days, and Stockdale responded: "Let us know the exact dates and then we'll make sure all our group are [sic] out of the way."

33. During the March 26 conversation, Baldassarre told Individual A that Individual A should deal directly with Mouallem to coordinate the trades.

34. During the March 26 conversation, Individual A told Baldassarre and Stockdale that Individual A would split his 30% fee with the RRs, paying them 23% in exchange for purchasing Dolphin stock in their discretionary customer accounts.

35. During the March 26 conversation, Individual A explained to Baldassarre and

Stockdale that the RRs' customers did not know of the kickback payments and asked Baldassarre and Stockdale for assurances that the customers would never be told of the kickback payments. Baldassarre responded: "Absolutely, of course," and Stockdale responded: "We understand that."

36. During the March 26 conversation, Baldassarre told Individual A that Baldassarre and Stockdale wanted to increase the price of Dolphin stock to at least 60 to 70 cents per share.

37. At the time that Baldassarre made these statements to Individual A, Dolphin stock was trading at approximately 30 cents per share.

38. During the March 26 conversation, Baldassarre and Stockdale told Individual A that they wanted to liquidate their entire position of 7 million shares for a total of at least 3 to 4 million dollars.

39. On March 31, 2010, in accordance with the agreement to purchase Dolphin stock, Individual A called Mouallem to arrange the stock purchases.

40. During this telephone conversation on March 31, 2010, Mouallem instructed Individual A to purchase 20,000 shares of Dolphin stock at 29.8 cents per share.

41. Over the next week, Mouallem instructed Individual A to purchase 85,000 additional shares of Dolphin stock. Mouallem instructed Individual A to purchase 25,000 shares of Dolphin stock on April 1, 2010 at 35 cents per share, 20,000 shares of Dolphin stock on April 5, 2010 at 37.5 cents per share, and 40,000 shares of Dolphin stock on April 6, 2010 at 39.5 cents per share.

42. In total, between March 31, 2010 and April 6, 2010, Mouallem instructed Individual A to submit orders to buy an aggregate of 105,000 shares of Dolphin stock for an

aggregate purchase price of \$38,100.

43. To ensure that Individual A's buy orders were matched with Mouallem's sell orders, Mouallem gave precise instructions to Individual A concerning the size, price and timing of the buy orders.

44. As a result of Mouallem's coordination of trading, almost all of Individual A's March 31 to April 6, 2010 purchase orders for Dolphin stock were matched against Mouallem's sell orders at prices that Mouallem had prearranged.

45. Shortly thereafter, Baldassarre paid a kickback payment to Individual A. On April 9, 2010, Baldassarre deposited \$4,450 in cash into a bank account designated by Individual A. On April 13, 2010, Baldassarre deposited an additional payment of \$6,990 in cash into the same bank account. The two payments total \$11,440, approximately 30% of the \$38,100 worth of Dolphin stock purchased by Individual A.

FIRST CLAIM FOR RELIEF

Violations of Section 17(a) of the Securities Act

46. The Commission realleges and incorporates paragraphs 1 through 45 by reference as if fully set forth herein.

47. Defendants, directly or indirectly, singly or in concert, in the offer and sale of securities, by the use of the means or instruments of transportation or communication in interstate commerce, or by the use of the mails, (a) have employed, are employing, or are about to employ, devices, schemes, or artifices to defraud; (b) have obtained money or property by means of, or have otherwise made untrue statements of material fact, or have omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; and/or (c) have engaged, are

engaging, or are about to engage in transactions, practices, or courses of business which operate, operated, or would operate as a fraud or deceit upon the purchasers of securities.

48. Defendants knowingly or recklessly paid kickbacks in order to facilitate matched trading in Dolphin common stock with the intent of manipulating the market for Dolphin stock for the Defendants' unlawful benefit.

49. By reason of the foregoing, the Defendants, singly or in concert, directly or indirectly, have violated, are violating, and unless enjoined will again violate, Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

SECOND CLAIM FOR RELIEF

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

50. Paragraphs 1 through 49 are hereby realleged and incorporated by reference.

51. Defendants, directly and indirectly, singly or in concert, in connection with the purchase and sale of securities, by use of the means and instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange: (a) have employed, are employing, or are about to employ, devices, schemes, or artifices to defraud; (b) have made, are making, or are about to make untrue statements of material fact, or have omitted, are omitting, or are about to omit to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; and/or (c) have engaged, are engaging, or are about to engage in acts, practices, or courses of business which operate, operated, or would operate as a fraud or deceit upon other persons.

52. Defendants knowingly or recklessly paid kickbacks in order to facilitate matched trading in Dolphin common stock with the intent of manipulating the market for Dolphin stock for the Defendants' unlawful benefit.

53. By reason of the foregoing, the Defendants, singly or in concert, directly or indirectly, have violated, are violating, and unless enjoined will again violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. §240.10b-5.

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court enter a final judgment:

I.

Permanently enjoining the Defendants from violating Section 17(a) of the Securities Act, 15 U.S.C. §77q(a), Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b), and Rule 10b-5, 17 C.F.R. §§ 240.10b-5.

II.

Ordering the Defendants to disgorge their ill-gotten gains, if any, plus prejudgment interest.

III.

Imposing civil monetary penalties upon the Defendants pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

IV.

Prohibiting the Defendants from participating in any offering of penny stock pursuant to Section 20(g) of the Securities Act, 15 U.S.C. § 77t(g), and Section 21(d)(6) of the Exchange Act, 15 U.S.C. § 78u(d)(6).

V.

Prohibiting Baldassarre from serving as an officer or director of a public company

pursuant to Sections 20(e) of the Securities Act, 15 U.S.C. § 77t(e), and 21(d)(2) of the Exchange Act, 15 U.S.C. § 78(u)(d)(2).

VI.

Granting such other and further relief as the Court may deem just and proper.

Dated: December 7, 2011
New York, New York



George S. Canellos
Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
New York Regional Office
3 World Financial Center
New York, New York 10281-1022
(212) 336-0080 (Brody)
brodyt@sec.gov

Of Counsel:

Andrew M. Calamari
Todd D. Brody
Gerald A. Gross
Liora Sukhatme