

# SEC Charges Five Traders with Short Selling Violations

## FOR IMMEDIATE RELEASE

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Washington D.C., July 2, 2014 — The Securities and Exchange Commission today charged five traders for committing short selling violations while trading for themselves and Worldwide Capital Inc., a Long Island, N.Y.-based proprietary firm that earlier this year paid the largest-ever monetary sanction for Rule 105 violations.

Worldwide Capital and its owner Jeffrey W. Lynn agreed to pay \$7.2 million to settle SEC charges in March for violating Rule 105, which prohibits the short sale of an equity security during a restricted period – generally five business days before a public offering – and the subsequent purchase of that same security through the offering.

The SEC today instituted settled administrative proceedings against Derek W. Bakarich, Carmela Brocco, Tina Lizzio, Steven J. Niemis, and William W. Vowell for violating Rule 105 by selling shares short during the restricted period and purchasing offering shares of the same securities they had shorted. They purchased the offering shares through accounts they opened in their names or names of alter ego corporate entities at large broker-dealers and then executed the short sales of the securities through an account in Worldwide's name at different, smaller broker-dealers.

"These individuals shared in profits generated by transactions that violated important short selling regulations in place to protect the markets from manipulative trading activity," said Andrew M. Calamari, director of the SEC's New York Regional Office.

Each of the five traders agreed to settle the SEC's charges and pay a collective total of nearly \$750,000.

"When conducting these trades, these individuals did not comply with the law," said Amelia A. Cottrell, associate director of the SEC's New York Regional Office. "Now they must forfeit the profits they earned on their respective trades plus additional penalties."

According to the SEC's orders, Bakarich, Brocco, Lizzio, Niemis, and Vowell were selected by Lynn to conduct trades for Worldwide Capital, which he created for the purpose of investing and trading his own money. The traders he chose to trade his capital pursued an investment strategy focused primarily on obtaining allocations of new shares of public issuers coming to market through secondary and follow-on public offerings at a discount to the market price of the company's shares that were already trading publicly. They sold short the shares in those issuers in advance of the offerings, hoping to profit by the difference between the price they paid to acquire the offered shares and the market price on the date of the offering. From approximately August 2009 to March 2012, Bakarich, Brocco, Lizzio, Niemis, and Vowell each violated Rule 105 in connection with at least nine covered offerings. They received ill-gotten gains ranging from approximately \$16,000 to more than \$200,000.

Each of the five traders agreed to cease and desist from violating Rule 105 without admitting or denying the findings in the SEC's order. They agreed to disgorge all of their ill-gotten gains plus prejudgment interest and pay an additional penalty equal to 60 percent of the disgorgement amount:

- Bakarich, who lives in Duluth, Ga., agreed to pay \$16,231 in disgorgement, \$757 in prejudgment interest, and a \$9,739 penalty for a total of \$26,727.
- Brocco, who lives in East Meadow, N.Y., agreed to pay \$215,233 in disgorgement, \$27,056 in prejudgment interest, and a \$129,140 penalty for a total of \$371,429.

- Lizzio, who lives in Boca Raton, Fla., agreed to pay \$28,864 in disgorgement, \$1,548 in prejudgment interest, and a \$17,319 penalty for a total of \$47,731.
- Niemis, who lives in Jupiter, Fla., agreed to pay \$130,842 in disgorgement, \$5,893 in prejudgment interest, and a \$78,505 penalty for a total of \$215,240.
- Vowell, who lives in Manasquan, N.J., agreed to pay \$51,519 in disgorgement, \$4,427 in prejudgment interest, and a \$30,911 penalty for a total of \$86,857.

The SEC's investigation, which is continuing, has been conducted by Leslie Kazon, Joseph P. Ceglio, Karen M. Lee, Richard G. Primoff, Elzbieta Wraga, and Elizabeth Baier. The SEC appreciates the assistance of the Financial Industry Regulatory Authority and the New York Stock Exchange.

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## **Related Materials**

- [SEC order against Bakarich](#)
- [SEC order against Brocco](#)
- [SEC order against Lizzio](#)
- [SEC order against Niemis](#)
- [SEC order against Vowell](#)