

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LEWIS WILDER, as Trustee for the Lewis
Wilder Revocable Trust, 12/10/2010, and
IRON WORKERS LOCAL UNION NO. 17
PENSION FUND,

Plaintiffs,

and

AVON PENSION FUND, Administered by
Bath & North East Somerset Council,
Individually and on Behalf of All Others
Similarly Situated,

Lead Plaintiff

vs.

NEWS CORPORATION, NEWS INT'L.
LTD., K. RUPERT MURDOCH, JAMES
MURDOCH, LES HINTON and REBEKAH
BROOKS,

Defendants.

11 CV 4947 (PGG)

ECF CASE

**MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANT REBEKAH BROOKS' MOTION TO DISMISS THE
CONSOLIDATED AND AMENDED CLASS ACTION COMPLAINT**

KOBRE & KIM LLP
Michael S. Kim
Megha J. Charalambides
800 Third Avenue
New York, New York 10022
Tel: +1 212 488 1200
Fax: +1 212 488 1220

Counsel for Rebekah Brooks

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Defendant Rebekah Brooks (“Brooks”) respectfully submits this memorandum of law in support of her motion to dismiss the Consolidated and Amended Class Action Complaint (the “Complaint”) and joins in News Corporation (“News Corp.”), and other Defendants’ Motion to Dismiss the Complaint and the Memorandum of Law submitted in support thereof.

PRELIMINARY STATEMENT

The Complaint should be dismissed as to Brooks because Plaintiffs have failed to allege any facts to support a finding of personal jurisdiction over her. (*Infra* Part I.) As the Court is aware, Rule 12(b)(2) allows for dismissal where a plaintiff has not met the burden of showing the Court’s jurisdiction over a defendant. First, Plaintiffs do not allege that Brooks committed any acts in the U.S. that caused them injury, so she is not subject to specific jurisdiction. Second, Brooks is not subject to general jurisdiction because the Complaint fails to establish that Brooks has sufficient contacts with the U.S. to be subject to suit within this national forum. The Complaint merely alleges that Brooks is a CEO of News International Group, Ltd., a fact that is insufficient as a matter of law to establish personal jurisdiction. Third, Brooks should not be subject to this Court’s jurisdiction because doing so would not comport with traditional notions of fair play and substantial justice.

Plaintiffs’ fraud claims against Brooks must also be dismissed pursuant to Rules 12(b)(6) and 9(b) for failure to state a claim on which relief can be granted and failure to set forth the allegations with sufficient particularity. (*Infra* Parts II and III.)

BACKGROUND

The background facts are set forth in News Corp.’s Memorandum of Law in Support of its Motion to Dismiss the Complaint (hereinafter “News Corp.’s MTD”), which are incorporated

by reference. To the extent additional facts are necessary to decide any of the issues raised by this motion, they are discussed below.

ARGUMENT

I. THE COMPLAINT AGAINST REBEKAH BROOKS SHOULD BE DISMISSED FOR LACK OF PERSONAL JURISDICTION

The Complaint should be dismissed against Brooks, who is a British citizen residing in the United Kingdom, and whom the Complaint only identifies as being the Chief Executive Officer of News International Group Limited (“News Int’l.”). *See* Compl. ¶ 28. Plaintiffs make no allegation that Brooks committed any act in the United States that caused any harm to Plaintiffs.

A. Applicable Legal Principles

Pursuant to Federal Rule of Civil Procedure 12(b)(2), the Complaint should be dismissed because Plaintiffs fail to plead facts sufficient to establish personal jurisdiction over Brooks. Under Rule 12(b)(2), a plaintiff bears the burden of establishing the court’s jurisdiction over the moving defendant. *See Bank Brussels Lambert v. Fiddler Gonzalez & Rodriguez*, 171 F.3d 779, 784 (2d Cir. 1999). Where a plaintiff fails to meet that burden, a complaint may be dismissed as to that defendant for lack of personal jurisdiction. *See* Fed. R. Civ. P. 12(b)(2).

Plaintiff’s burden varies depending on the procedural posture of the litigation. Prior to discovery, as in this case, a plaintiff may defeat the motion “by pleading in good faith . . . legally sufficient allegations of jurisdiction.” *Ball v. Metallurgie Hoboken-Overpelt, S.A.*, 902 F.2d 194, 197 (2d Cir. 1990); *Whitaker v. American Telecasting, Inc.*, 261 F.3d 196, 208 (2d Cir. 2001). “At that preliminary stage, the plaintiff’s *prima facie* showing may be established solely by allegations.” *Ball*, 902 F.2d at 197. Still, plaintiff’s *prima facie* showing must include an averment of facts that, if credited by the trier of fact, would suffice to establish personal

jurisdiction over the defendant. *Id.*; *Safety Software Ltd. v. Rivo Software, Inc.*, No. 11-CIV-7433, 2012 WL 1267889, at *1 (S.D.N.Y. Apr. 11, 2012) (finding no personal jurisdiction over defendant who only had ‘occasional or casual’ contact with New York) (citations omitted). In evaluating plaintiff’s *prima facie* showing, all pleadings and affidavits are construed in the light most favorable to plaintiffs and all doubts are resolved and all inferences drawn in plaintiff’s favor. *See IUE AFL-CIO Pension Fund v. Herrmann*, 9 F.3d 1049, 1052 (2d Cir. 1993); *Ball*, 902 F.2d at 197 (“a Rule 12(b)(2) motion . . . assumes the truth of the plaintiff’s factual allegations for purposes of the motion and challenges their sufficiency”).

Courts undertake a two-step inquiry to determine whether the plaintiff’s *prima facie* showing of personal jurisdiction is sufficient to meet the constitutional requirements of due process. *Metro Life Ins. Co. v. Robertson-Ceco Corp.*, 84 F.3d 560, 567 (2d Cir. 1996). First, they must examine whether the defendant has constitutionally sufficient “minimum contacts” with the forum. *See Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474 (1985); *see also Chew v. Dietrich*, 143 F.3d 24, 28 (2d Cir. 1998). Where, as here, plaintiff’s claim rests on a federal statute authorizing nationwide service of process, the relevant forum is the national forum. *See, e.g., Max Daetwvler Corp. v. Meyer*, 762 F.2d 290, 295 (3d Cir. 1985). Second, courts assess whether the constitutional requirements of due process have been met such that subjecting the defendant to the court’s jurisdiction comports with “traditional notions of fair play and substantial justice.” *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945). Where the Court deems that exercising jurisdiction over Brooks would be unreasonable as a matter of due process, the Court should dismiss this action as to Brooks.

B. The Court Should Decline to Exercise Personal Jurisdiction Over Rebekah Brooks Because Plaintiffs Fail To Allege Sufficient Minimum Contacts Within the United States

The Complaint should be dismissed as to Brooks because Plaintiffs do not show that she has constitutionally sufficient “minimum contacts” with the national forum. *See Burger King Corp.*, 471 U.S. at 474. “In judging minimum contacts, a court properly focuses on ‘the relationship among the defendant, the forum, and the litigation.’” *Calder v. Jones*, 465 U.S. 783, 788 (1984) (quotations omitted). Under the minimum contacts inquiry, a court may exercise either general or specific personal jurisdiction. *See Int’l Shoe Co.*, 326 U.S. at 317.

To establish minimum contacts necessary to justify “specific jurisdiction,” the plaintiff must first show that its claim “arises out of or relates to” the defendant’s contacts with the forum. *See Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 427 (1984) (finding no personal jurisdiction where defendant did not have sufficient minimum contacts with the forum state); *Chaiken v. VV Pub. Corp.*, 119 F.3d 1018, 1028 (2d Cir. 1997) (denying personal jurisdiction over defendant for lack of minimum contacts). Plaintiff must also show that the defendant “purposefully availed” himself of the privilege of doing business in the forum and “could foresee being ‘hailed into court there.’” *See id.* General jurisdiction, on the other hand, requires that the defendant's contacts with the forum are "continuous and systematic." *See Helicopteros*, 466 U.S. at 416. The minimum contacts test is more stringent for general jurisdiction where “jurisdiction is not related to the events giving rise to the suit.” *See Metro Life*, 84 F.3d at 568. There is no allegation that Brooks traveled to the U.S. to commit any act that damaged Plaintiffs to justify specific jurisdiction over her. Indeed, even with respect to the allegations regarding News Int’l., Plaintiffs do not identify any statements or omissions made by

News Int'l. in the U.S.¹ There is simply no allegation that Brooks committed any particular act in the U.S. that damaged Plaintiffs. In such a case, it is unfair to conclude that Brooks—who, during the class period, worked for a company headquartered in the United Kingdom—should have foreseen being sued individually in the U.S. *See* Compl. ¶¶ 155-56.

Likewise, Plaintiffs do not allege sufficient contacts to permit the Court to exercise general jurisdiction over Brooks. With regard to Brooks, Plaintiffs seem to allege that her role as chief executive of News Int'l. provides a basis for the court to assert general jurisdiction over her. *See* Compl. ¶ 28 (stating only that “Brooks . . . was appointed Chief Executive of News Int'l. in June 2009,” and that “[w]hile she was the Chief Executive of News Int'l. she was regularly quoted in press releases and regularly spoke on behalf of News Int'l. and NewsCorp.”); ¶ 205(e). These allegations are insufficient as a matter of law to warrant personal jurisdiction over Brooks.

Courts have affirmed a bright-line rule that mere allegations of a corporation's contacts with the forum state, without more, are insufficient to establish personal jurisdiction over a corporate officer. *In re Terrorist Attacks on September 11, 2001*, 718 F.Supp.2d 456, 471 (S.D.N.Y. 2010) (citing *In re AstraZeneca Sec. Litig.*, 559 F.Supp.2d 453, 467 (S.D.N.Y. 2008) (stating that “[a] person's status as a board member is not alone sufficient to establish jurisdiction”)); *see In re Alstom SA Sec. Litig.*, 406 F.Supp.2d 346, 398 (S.D.N.Y. 2005) (“Jurisdiction over the representatives of a corporation ‘may not be predicated on jurisdiction over the corporation itself.’”). Indeed, jurisdiction over a corporate officer “in his or her individual capacity, must be premised on the defendant's own personal contacts with the forum, and not the acts and/or contacts carried out by the defendant in his or her corporate capacity.”

¹ Plaintiffs merely allege that News Corp. posted News Int'l.'s April 8, 2011 Press Release on its website. *See* Compl. ¶ 152.

Id.; see *In re Alstrom*, 406 F.Supp.2d at 398 (noting that “jurisdiction over the individual officers and directors must be based on their individual contacts with the forum state”). Plaintiffs make no allegation attributing to Brooks, in her individual capacity, any contacts with the U.S.²

C. Traditional Notions of Fair Play and Substantial Justice Further Warrant Dismissal

Regardless whether there is general or specific jurisdiction over Brooks in this Court, subjecting Brooks to jurisdiction in the United States moreover does not comport with notions of fair play and justice. See *Bank Brussels Lambert v. Fiddler Gonzalez & Rodriguez*, 305 F.3d 120, 129 (2d Cir. 2002); *Metro Life*, 84 F.3d at 568 (finding that where minimum contacts are sufficient to establish personal jurisdiction, courts must also inquire “whether the assertion of personal jurisdiction comports with ‘traditional notions of fair play and substantial justice’”) (citations omitted). This second step requires courts that wish to exercise personal jurisdiction over a defendant to consider whether doing so “is reasonable under the circumstances of the particular case.” *Id.* There are five factors to consider in doing so: “(1) the burden that the exercise of jurisdiction will impose on the defendant; (2) the interests of the forum state in adjudicating the case; (3) the plaintiff’s interest in obtaining convenient and effective relief; (4) the interstate judicial system’s interest in obtaining the most efficient resolution of the controversy; and (5) the shared interest of the states in furthering substantive social policies.” *Sikhs for Justice v. Nath*, 850 F. Supp. 2d 435, 443 (S.D.N.Y. 2012) (citing *Bank Brussels*, 305 F.3d at 127) (quotations omitted). An analysis of these factors renders jurisdiction over Brooks unreasonable.

² Even assuming for a moment that jurisdiction over News Int’l. automatically conferred jurisdiction over Brooks, Plaintiffs fail to allege facts sufficient to confer jurisdiction over News Int’l., which itself is based in the United Kingdom. News Corp.’s MTD, pp. 34-36.

First, as to the burden on the defendant, the Complaint alleges that Brooks was employed in the United Kingdom by News Int'l., and prior to that, that she was employed by *News of the World*, and *The Sun*, both of which are based in the U.K. Compl. ¶ 28. Also, the Complaint centers on claims arising from News Corp.'s alleged "illegal newsgathering practices in the U.K." *Id.* ¶ 12. Requiring Brooks to defend an action in the U.S. for activities that allegedly took place in the U.K. would impose a significant burden on her.

Second, the connection between the U.S. and the case against Brooks individually is tenuous at best. Plaintiffs do not allege that Brooks' statements were made in or directed to the U.S. Indeed, the one and only "statement" Plaintiffs allege Brooks to have made during the class period was a private letter she sent to the British Home Affairs Committee. Compl. ¶ 155. Plaintiffs even concede that this letter was merely a "response to renewed interest in testimony she had provided during 2003 Parliamentary hearings", nearly a decade earlier. *Id.* Plaintiffs' suggestion that Brooks' statement—made abroad to a foreign sovereign—should serve as basis for suit against her in the U.S. is novel to say the least, and it would be unfair to expect that Ms. Brooks should have anticipated facing U.S. litigation as a result of a letter she sent in the U.K. to the British Government.

Third, dismissing the Complaint against Brooks would not interfere with the Plaintiffs' ability to pursue this matter, to the extent it has any merit. There is no evidence to suggest that the institutional defendants named here would not be able to satisfy any judgment resulting from this matter.

Fourth, allowing Plaintiffs to proceed against Brooks would delay the Court's ability to address the issues at the heart of this case by focusing the Court's limited resources on collateral

issues. By dismissing the Complaint as to Brooks, the Court can avoid the lengthy delays inherent in adjudicating issues relevant to Brooks individually, such as personal jurisdiction.

Finally, Plaintiffs have not suggested, and there is no basis to infer, that there are any shared interests of the states in furthering substantive social policies. *See Met. Life*, 84 F.3d at 575 (finding that this substantive social policy issue favored neither party in assessing the reasonableness criteria where plaintiff did not suggest or show “any substantive social policies that would be furthered by permitting [the] case” to proceed as is).

The Complaint should therefore be dismissed as to Brooks as there is no allegation that establishes personal jurisdiction over Brooks.

II. BROOKS HAS NO DUTY TO CORRECT PRE-CLASS PERIOD STATEMENTS

As explained in News Corp.’s MTD, and incorporated here by reference, defendants are “liable only for those statements made during the class period.” News Corp.’s MTD, pp. 22-24 (citations omitted). The Second Circuit has clearly held that pre-class period statements are not actionable. *See Lattanzio v. Deloitte & Touche LLP*, 476 F.3d 147, 153 (2d Cir. 2007); *In re IBM Corporate Sec. Litig.*, 163 F.3d 102, 107 (2d Cir. 1998); *In re Refco, Inc. Sec. Litig.*, 503 F. Supp. 2d 611, 643 (S.D.N.Y. 2007). Plaintiffs’ arguments to the contrary criticize the Second Circuit’s holdings in *Lattanzio* and *In re IBM*, but do not provide any *legal* justification for this Court to diverge from well-settled law. *See* Plaintiffs’ Opp., pp. 13-20. Plaintiffs’ arguments are therefore inapposite. *See id.*

Finding no support for their position within the Second Circuit, Plaintiffs attempt to bolster their argument that pre-class period statements are actionable using cases outside this Circuit. *See* Plaintiffs’ Opp., p. 13-15, 18. However, to the extent these cases are even persuasive, they do not support Plaintiffs’ position that pre-class period statements are

actionable. For instance, Plaintiffs cite to *Zleman v. JDS Uniphase Corp.*, 376 F.Supp.2d 956, 966-67 (N.D. Cal. 2005), in arguing that the timeline of the fraud is irrelevant to the class period. Plaintiffs' Opp., p. 14. Plaintiffs' selective reading of *Zelman*, however, is mistaken.

Indeed, the court in *Zelman* states that “the principle that in a securities class action lawsuit, liability cannot attach to statements made either before or after the class period . . . accurately describes how the scope of a class period coincides with the timing of actionable statements in traditional securities fraud action”. 376 F.Supp.2d at 966 (emphasis added). The *Zelman* court then goes on to carve out a narrow exception for cases where “the value of the securities . . . purchased was [allegedly] distorted by fraud relating to the value of pre-existing linked securities.” *Id.* (quotations omitted) (emphasis added). The case at hand, however, is a traditional securities fraud action. See Compl. ¶¶ 194-209. Therefore, by Plaintiffs' own reference, “liability cannot attach to statements made either before or after the class period”. *Zelman*, 376 F.Supp.2d at 966.

In addition to *Zelman*, Plaintiffs cite to other Circuit cases in arguing that *uncorrected* pre-class period misrepresentations are actionable. Plaintiffs' Opp., p. 15. However, these cases are also inapposite where, as here, the pre-class period statements were corrected prior to the class period. See News Corp.'s MTD, pp. 14-18. Even assuming they were not corrected before the class period—though they were—Plaintiffs' argument fails as a matter of law. Plaintiffs' argument mistakenly relies, for example, on *In re Nuvelo, Inc. Sec. Litig.*, 668 F.Supp.2d 1217, 1225 (N.D. Cal. 2009). In *Nuvelo*, the court found that pre-class period statements linked to a rise in stock price during the class period were actionable. *Id.* Plaintiffs allege no such facts here.

Likewise, Plaintiffs reference a Third Circuit case, *In re Crown American Realty Trust Sec. Litig.*, which itself recognizes opposing Second Circuit law as examples of “authority from [other] district courts for the proposition that . . . misstatements [become] stale or . . . [are] superseded by later events and disclosures.” No. CIV-95-202J, 1997 WL 599299, at *16 (W.D. Pa. Sept. 15, 1997) (citing *In re Time Warner Inc. Sec. Litig.*, 668 F.Supp.2d 1217, 1260 (S.D.N.Y. 1992); *Rand v. Cullinet Software, Inc.*, 847 F.Supp. 200, 210 (D. Mass. 1994)). Plaintiffs, by their choice, brought suit in the Second Circuit and cannot now seek to avail themselves of the potentially more advantageous laws of other forums.

Plaintiffs also cite to *Dura Pharm., Inc. v. Broudo*, 544 U.S. 336 (2005), to bolster their contention that the impact of a misleading statement or omission continues until corrected. Plaintiffs’ Opp., p. 14. Again, Plaintiffs purposefully misinterpret the case to suit their needs. In *Dura*, the Supreme Court addresses the issue of loss causation—not class period—and states that a misrepresentation may be one of a “tangle of factors affecting price” that “will *sometimes* play a role in bringing about a future loss.” *Id.* at 343. Plaintiffs’ creative interpretation of *Dura* to stand for the proposition that a misrepresentation *alone* can cause investors’ injury until corrected is improper.

Plaintiffs allege only one class period “statement” made by Brooks.³ Compl. ¶ 155-56. According to Plaintiffs, on April 11, 2011, Brooks sent “a letter to the Home Affairs Committee” regarding further inquiries into her 2003 testimony before the British Parliament about payment of bribes to police. *Id.* As noted in News Corp.’s Motion to Dismiss, this statement provides no

³ Plaintiffs’ allegation that News Int’l.’s April 8, 2011 Press Release constitutes a misstatement attributable to Brooks is patently false for the reasons set forth in News Corp.’s Motion to Dismiss, and incorporated here by reference. News Corp.’s MTD, p. 15-16, and p. 16 n. 6. Plaintiffs’ arguments to the contrary do nothing more than refashion their conclusory allegations that the April 8th Press Release did not cause a drop in the price of News Corp. stock, and therefore was not a true apology and correction. Plaintiffs’ Opp., p. 25.

foundation on which Plaintiffs can allege securities fraud against Brooks as the letter was directed to Parliament in the U.K., and made no representation regarding phone-hacking at News Int'l. News Corp.'s MTD, pp.19-20. Plaintiffs do not contest these points in their Opposition.

III. PLAINTIFFS FAIL TO SUFFICIENTLY PLEAD THAT BROOKS ACTED WITH SCIENTER

Plaintiffs' allegations are insufficient to plead that Brooks acted with scienter. As noted recently in *In re UBS AG Sec. Litig.*, No. 07 CIV 11225, 2012 WL 4471265, at * (S.D.N.Y. Sept. 28, 2012), “[a] plaintiff alleging fraud under Section 10(b) must sufficiently plead scienter, stating ‘with particularity facts giving rise to a strong inference that the defendant acted with the required state of mind,’ defined as a ‘state embracing intent to deceive, manipulate, or defraud.’” (Citations omitted). In assessing a plaintiff’s allegations of scienter, “the Court must consider ‘not only inferences urged by the plaintiff . . . but also competing inferences rationally drawn from the facts alleged.’” *In re UBS*, 2012 WL 4471265, at *11 (citing *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 319 (2007)). A strong inference of scienter can be established by pleading either “that the defendants had both motive and opportunity to commit the fraud” or “strong circumstantial evidence of conscious misbehavior or recklessness.” *In re UBS*, 2012 WL 4471265, at *11. As to Brooks, Plaintiffs do neither.

This Court has held that “recklessness is adequately alleged when a plaintiff specifically alleges defendants’ knowledge of facts or access to information contradicting their public statements.” *See In re UBS*, 2012 WL 4471265, at *13 (citations omitted). Plaintiffs’ allegations are too general to sufficiently plead that Brooks had knowledge of or access to

information contradicting her statement to Parliament regarding bribery of public officials.⁴ For instance, Plaintiffs allege that Tom Crone, a legal officer who oversaw News Corp.'s internal investigation, "communicated frequently with James Murdoch, Brooks and Hinton." Compl. ¶ 34(b). However, Plaintiffs do not allege the contents of these communications. *See Inter-Local Pension Fund GCC/IBT v. General. Elec. Co.*, 445 F.Appx 368, 370 (2d Cir. 2011) ("Although a strong inference of scienter may arise when a complaint alleges that defendants 'knew facts or had access to information suggesting that their public statements were not accurate,' *such an allegation must specifically identify the reports or statements containing this information.*") (emphasis added) (citations omitted).⁵

Several paragraphs later, Plaintiffs generally allege that proceedings stemming from News Corp.'s alleged phone-hacking and bribery brought to light "extensive evidence" that "leaves no doubt of the nature and extent of NewsCorp's hacking and bribery in the U.K., and defendants knowledge of those practices." Compl. ¶ 43. Again, Plaintiffs do not allege that Brooks had any knowledge of bribery to police or government officials that would render her April 11, 2011 letter to Parliament false. *See Teamsters Allied Benefit Funds v. McGraw*, No. 09 CIV 140, 2010 WL 882883, at *11 (S.D.N.Y. Mar. 11, 2010) (holding that scienter must be pled as to each defendant individually). Likewise, Plaintiffs later state that in her April 11th letter, Brooks "again asserted that her 2003 testimony was intended to convey only an

⁴ Moreover, as noted in News Corp.'s Motion to Dismiss, and incorporated here by reference, "conclusory and entirely unfounded" allegations suggesting that an "avoidance of personal liability motive" are "too speculative and conclusory to support scienter." News Corp.'s MTD, p.29 (citations omitted).

⁵ Plaintiffs allege, based solely on an email exchange to which Brooks was not party, that "Brooks had been told by police that they had uncovered evidence of widespread hacking at the paper" in 2006. *See* Compl. ¶¶ 46-49. However, Plaintiffs' do not make any allegation regarding Brooks' knowledge of bribery at News Int'l. to suggest that her one and only class period statement, namely her April 11, 2011 letter to Parliament regarding police bribery—not phone hacking—was falsely made.

acknowledgement” that media bribed public officials, and not any specific knowledge of News Corp.’s alleged bribery. Compl. ¶ 156. Calling this an act of “deception”, Plaintiffs allege that Brooks continued to lie about bribery at News Corp. even after her arrest. *Id.* Yet again, Plaintiffs do not make any allegation as to Brooks’ knowledge of the falsity of her statement.⁶

In fact, Plaintiffs’ allegations are self-contradictory. According to Plaintiffs, at least three years after Brooks allegedly learned of phone-hacking at News Int’l., Brooks accepted a position as CEO of the company, thereby entwining her professional and financial prospects with that of the company. *See* Compl. ¶¶ 28, 97. It defies logic that she would have accepted the opportunity to command a ship she knew was sinking, much less one she was helping to sink. *See In re UBS*, 2012 WL 4471265, at *12-13 (finding no scienter where plaintiffs argued that defendants invested in overvalued securities and repurchased its own shares at allegedly inflated prices because “such a strategy of repurchasing stock at a knowingly inflated price would be economically irrational”) (*citing Davidoff v. Farina*, No. 04 CIV 7617, 2005 WL 2030501, at *11 n. 19 (S.D.N.Y. Aug. 22, 2005) (granting motion to dismiss because “it would have made no economic sense for defendants to invest literally billions of dollars in a venture that they knew would fail”)).

⁶ Even in their Opposition, Plaintiffs make only conclusory allegations that Brooks “intended to” make public statements she knew were false. Plaintiffs’ Opp, p. 27.

CONCLUSION

For the foregoing reasons, the Court should dismiss the Complaint with prejudice against Rebekah Brooks.

Dated: New York, New York
November 23, 2012

KOBRE & KIM LLP

s/ Megha J. Charalambides
Michael S. Kim
Michael.Kim@kobrekim.com
Megha J. Charalambides
Megha.Charalambides@kobrekim.com

800 Third Avenue
New York, New York 10022
Tel: +1 212 488 1200
Fax: +1 212 488 1220

Attorneys for Rebekah Brooks