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Securities and Exchange Commission
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RE: Release No. 34-69477; File No. 81-939

Application of W2007 Grace Acquisition I, Inc. (f/k/a Equity Inns, SEC CIK # 0000916530) under Section 12(h) of the Securities Exchange Act of 1934

Dear Securities and Exchange Commission:

Introduction

This case illustrates serious gaps in investor protection in the OTC market. The application should not be decided based on a technical measure of the number of shareholders, but on considerations of investor protection and the public interest in fair, orderly, and efficient markets. W2007 Grace Acquisition I's application for an exemption from its reporting requirements under the Exchange Act should be denied. Continuing disclosure is necessary in order to provide to the public the information needed for a fair and orderly market and to prevent insider trading in continuing violation of Rule10b-5.

[1] I am also on the boards of directors of the EDGA and EDGX stock exchanges. My comments are strictly my own and don't necessarily represent those of Georgetown University, the University of Pennsylvania, EDGX, EDGA, or anyone else for that matter.

If the Commission does grant the petition, it should exercise its statutory authority to set terms and conditions and require the Company to provide continuing disclosure on its web site and other things.

The Commission should also amend its rules to relax the 300 shareholder limit for deregistration while ensuring that issuers continue to publicly disclose material information on their web sites.

Before I get into the specifics of the case at hand, I will first discuss some general principles regarding the protection of investors at deregistered companies:

I. It is in the public interest for the SEC to protect investors when firms go dark.

It is in the public interest for companies to be able to raise capital on acceptable terms and conditions. This capital provides investment that creates jobs and economic growth. Investors will only invest if they believe that they will be fairly treated. It is reasonable for investors to expect that publicly traded NYSE-listed firms will continue to provide quality financial information to shareholders in the future. Before they invest, investors will take into account the likelihood that inadequate shareholder protection will allow others to steal assets that rightfully belong to the shareholders. If that likelihood is too high, they will not invest.

<u>Going dark is not the same as going private.</u>

This case demonstrates a glaring gap in investor protection. The SEC permits SEC registrants to deregister, or "go dark," by filing a Form 15, when they allege they have less than 300 shareholders of record.[2][3] This indicates that the firm no longer intends to file periodic reports with the SEC such as quarterly or annual financial statements.

Given the substantial and costly burdens of being a public company, going dark can make sense for a number of small companies. Deregistering from the SEC suspends the requirement for a company to make ever more and ever longer and ever more expensive filings with the SEC. Deregistering may also reduce the giant "Sue Me!" sign that hangs over every public company in the U.S.

However, going dark is NOT the same as going private. There are still pre-existing public shareholders in the firm who require a fair and orderly market to exit when the time comes. To whom are they going to sell? The future investors also need adequate information before they can invest.

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[2] Since most investors now hold their securities in "street name," the "shareholders of record" are typically large brokerage firms and custodian banks that hold the shares at Depository Trust Corporation. The number of shareholders of record seriously understates the number of public investors in the security.

[3] Technically speaking, the registrant suspends its reporting requirements under the Act.

Deregistering from the SEC does not change the fiduciary duties that a firm's directors owe to the shareholders. Boards still have the standard duty of loyalty to act in the best interest of the corporation and its shareholders, as well as the standard duty of care. It is a sad fact of life that not all company boards comply with their duties. A company that does not want to fulfill its fiduciary responsibilities to its remaining public shareholders should go completely private with a proper tender offer, not engage in shareholder suppression.

The SEC currently makes little provision for the protection of minority shareholders who still own shares in deregistered companies. These shares still trade in the OTC markets. In order for these shareholders to receive fair value for their shares when they need to sell, there has to be a properly functioning secondary market for those shares. A secondary market **does** exist in the OTC market, like it or not. In order for the secondary market to function in a fair and orderly manner, owners and potential owners of these shares still need adequate information upon which to base their investment decisions.

Some deregistered firms do the right thing and still provide information to their shareholders. For example Federal Screw Works deregistered in 2005, but it still provides regular financial statements to shareholders. Other firms voluntarily agree to provide public information to investors, and some list on OTC Markets' OTCQX segment, which includes the posting of public financial information.

However, some companies that go dark provide as little information as possible to shareholders.

This makes possible the following abusive scenario: Company goes dark and then embarks on a systematic campaign of shareholder suppression to squeeze out the remaining public shareholders. The company provides almost no further information to shareholders. Company stonewalls attempts by shareholders to obtain basic financial information in the company. Company also takes steps to make shares no longer eligible for electronic transfer at DTC, thus making it difficult and expensive for shareholders to buy and sell the shares.

These actions reduce the value of the shares. When shareholders need to sell, the only buyers are the corporate insiders who know what is actually happening inside the company. No one else would want to buy the shares in a company that is so openly hostile to its shareholders.

Since the company's reporting obligations are suspended, the company's activities are not reported to the SEC, and are thus off the SEC's radar screen. As the company is not listed on an exchange, it also avoids the scrutiny of the regulation provided by the exchange.

The insiders thus gradually confiscate the company from the minority shareholders. Alternatively, the insiders take advantage of the lack of disclosure to engage in various sweetheart deals with other affiliated entities, and thus tunnel substantial assets out of the company, leaving behind a worthless shell.

Such an abuse of the minority shareholders is a classic example not only of shareholder suppression but also of "shareholder oppression." The long history of similar abuses of minority shareholders has led to the development of much corporate law and securities regulation.[4]

Shareholder suppression violates the property rights of shareholders.

One of the basic rights of ownership is the ability to sell the property to others. When issuers engage in shareholder suppression by reducing the ability of shareholders to sell their shares, they are trampling upon the property rights of the shareholders.

Expanding protections for shareholders of nonreporting issuers is consistent with Congressional intent.

Although Congress and the SEC permit issuers to suspend their reporting obligations by deregistering under certain conditions, the shares still exist. At no time did Congress decree that there should be no market for such shares, that there should be no shareholder protection, or that investors should not have adequate information upon which to invest. On the contrary, in 1990 Congress passed the Penny Stock Reform Act which specifically called upon the SEC to facilitate an automated quotation system for penny stocks.[5] This shows that Congress did not want to suppress the public market in unregistered shares, but to protect investors by making sure that they had the proper information.

The recent JOBS Act relaxes registration requirements, and will probably lead to more nonreporting issuers and thus more shareholders in nonreporting issuers. However, Congress did not intend for there to be any less protection of investors. The text of the legislation repeatedly calls for the Commission to adopt rules and to require the disclosure of more information that it finds necessary for the protection of investors.

One of the prerequisites for a fair and orderly market and to protect investors is that investors need to have adequate information about the nature of securities in the market and the prices of those securities. This fundamental premise is the basis for our securities laws and regulations.

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[4] See, e.g., Douglas K. Moll, *Shareholder Oppression & Dividend Policy in the Close Corporation*, 60 WASH. & LEE L. REV. 841, 870 (2003).

[5] See Penny Stock Reform Act of 1990, §506, Public Law 101- 429 which added §17B(b) to the Securities Exchange Act. This led to the creation of NASD's Over-The-Counter Bulletin Board (OTCBB) market. The securities at issue in this proceeding, however, are not penny stocks under the SEC's definition of penny stocks, but the same point applies. The lack of registration and reporting obligations does not mean that a fair and orderly market should not exist.

The SEC should require deregistered companies to continue to disseminate financial information.

The SEC has a clear statutory mandate to protect investors from the type of shareholder oppression described above. Indeed, the phrase "protection of investors" appears over 200 times in the Securities Exchange Act of 1934 as amended. The Commission clearly has authority under Sections 9 and 10 of the Act to pass regulations in the public interest that would prevent exactly this type of manipulation. Likewise, as part of the Form 15 procedure, the Commission can specify procedures for the protection of the remaining shareholders.

For example, the Commission should require deregistrants to continue to disseminate regular financial information that they already collect, even if such information is incomplete, unaudited and not filed with the Commission. Issuers should NOT be required to collect information that they do not already collect. The Commission should require that such information be posted on the deregistrant's web site and/or disseminated in some other web-accessible way that can easily be located with a web search. For example, the information could be provided to a web site such as a Yahoo! or otcmarkets.com. This would provide shareholders and potential shareholders important information that they need in making their buying and selling decisions while sparing the deregistrants of the formal legal expenses of registration.

The investors who hold shares in a public company should not be stripped of their rights just because the issuer files a Form 15 with the SEC. A once-public firm with public shareholders is a very different entity from a private firm that has never accessed the public capital markets, and SEC policy should reflect these differences. Shareholders who invest in a truly private company presumably understand the nature of the disclosures, if any, that they will receive. On the other hand, investors in public companies have a reasonable expectation that they will continue to receive regular updates on the status of their investment and prompt, fair disclosure of material events. The SEC should make this happen in a cost-effective manner.

The 300 shareholder rule has the paradoxical effect of suppressing disclosure.

As mentioned above, many issuers go dark in order to avoid the burdensome compliance costs associated with SEC registration. Once below the magic 300 shareholders of record, they can file a Form 15 and suspend their reporting obligations. However, some issuers may fear that the number of shareholders will creep over 300, forcing an expensive resumption of their reporting obligations. In order to avoid this, they may take additional steps to keep the number of shareholders of record down. Some lawyers recommend that issuers release no financial information at all in order to further deter other investors from buying the shares.[6] The SEC should take steps to mitigate this unintended consequence of the 300 shareholder limit by promoting the disclosure of information.

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[6] See Gregory C. Yadley and Willard A. Blair, Going Private Or Going Dark? That Is The Question, The Practical Lawyer, February 2010. http://www.slk-law.com/portalresource/lookup/wosid/cp-base-4-5702/media.name=/GCY%20&%20WAB.Feb.%202010%20The%20Practical%20Lawyer%5B1%5D.pdf

The SEC should take steps to prevent and prosecute insider trading in deregistered firms.

When an issuer deregisters (or never registers in the first place), the officers, employees and other insiders still have substantial access to material nonpublic information about the issuer. Other shareholders and potential investors do not. When deregistered companies refuse to disseminate financial information, this creates a distinctly non level playing field between the insiders and other investors. Any transaction by the insiders in this situation is a flagrant violation of SEC Rule 10b-5-1 which prohibits trading upon material nonpublic information.

The refusal of some deregistered issuers to disclose information puts their employees who own shares or have options to acquire shares in a very difficult situation. By the nature of their employment, they have access to material nonpublic information. In registered and reporting companies, much of this material information is made public in routine SEC filings, and the period shortly after the disclosure of such information provides a window during which employees can buy or sell the stock without violating the law. However, for non-disclosing companies there is no such window because there is no disclosure at all. This means that an employee can almost never legally buy or sell shares.

The SEC should warn companies about this problem and suggest that they can prevent problems by posting relevant financial information on their web sites or other web-accessible places. The SEC should also provide simple disclosure guidelines that would serve as a safe harbor for issuers and their employees. Then it should surveil for and prosecute those who engage in insider trading in deregistered stocks.

The SEC should increase the number of firms that can deregister, but with safeguards for investors.

In the recent JOBS Act, Congress recognized the burdensome cost of SEC registration and increased the number of shareholders of record that triggers registration requirements from 500 to 2,000.[7] But under current SEC rules, an issuer still does not have the ability to deregister until the number of shareholders of record drops below 300. We thus have a situation in which one firm that has always had exactly 500 shareholders of record since just before the passage of the JOBS Act still must comply with costly reporting requirements, but a newer firm with exactly the same number of shareholders of record will never have to register. This makes no sense. The SEC should take steps to address this unfairness.

However, Congress has also clearly recognized on many occasions how necessary information is for investor protection – and not just for registered securities. Indeed, as mentioned above, Congress specifically directed the creation of an automated quotation system for penny stocks, most of which were unregistered. The SEC should use its broad exemptive authorities and amend its rules to permit firms with less than 1,000 shareholders of record to suspend their reporting obligations **under the condition that such firms continue to make comparable financial information available on their web site and**

[7] It should not go unstated that the problem of costly compliance is not solved by reducing the number of companies that register with the SEC. The SEC should continue to look for ways to reduce compliance costs while still properly protecting investors.

at least one other easily accessible and independent web site such as a Yahoo Finance or otcmarkets.com.

The firms would not be under any obligation to collect information that they do not collect in the normal course of business, but they would be expected to post and maintain on their web sites important information including quarterly and annual financial statements, prompt notices of material events, and information regarding corporate governance such as information regarding the name and compensation of the executives and directors, related party transactions, corporate charter and bylaws.

Now, back to the details of the case at hand, many of which bear an unfortunate resemblance to the hypothetical abusive situation above…

II. The Equity Inns/ W2007 Grace Acquisition Soap Opera

I have been a preferred Class B shareholder in this soap opera for many years. *Bloomberg Business Week* describes the company as follows: "W2007 Grace Acquisition I Inc. operates as a subsidiary of The Goldman Sachs Group, Inc."[8] W2007 Grace Acquisition I Inc. is a product of a leveraged buyout of Equity Inns, Inc. that occurred in 2007.

Equity Inns was, by its own admission in its 10-K reports, a "well known seasoned issuer" as well as an accelerated filer, with its common stock as well as its Class B and Class C preferred shares listed on the New York Stock Exchange.[9] Equity Inns described itself as "a self-advised REIT that focuses on the upscale extended stay, all-suite and midscale limited-service segments of the hotel industry. The Company, which ranks as the third largest hotel REIT based on number of hotels owned, currently owns 132 hotels with 15,731 rooms located in 35 states."[10] Some of the hotels owned by Equity Inns include hotels operated under the Hampton Inns, Courtyard, Homewood Suites, and Residence Inn labels.

Equity Inns issued 3,162,500 shares of 8.75% Class B cumulative preferred stock at an offering price of $25.00 in August 2003.[11] An additional 287,500 shares were sold at the same price in October 2003. The shares promised to pay an annual dividend at the rate of $2.1875 per share, to be paid in quarterly installments. The preferred shares are currently redeemable at a redemption price of $25.00 per share plus accrued and unpaid dividends, and the shares have a liquidation preference of $25.00 per share.[12]

[8] http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=40399135

[9] The CIK for Equity Inns is 0000916530. The NYSE listing certification is at http://www.sec.gov/Archives/edgar/vprr/03/9999999997-03-031888.

[10] Equity Inns June 21, 2007 press release in Form 8-K, http://www.sec.gov/Archives/edgar/data/916530/000095014407005932/g08022exv99w1.htm.

[11] http://www.sec.gov/Archives/edgar/data/916530/000095014405002667/g93811e10vk.htm

[12] See the prospectus at http://www.sec.gov/Archives/edgar/data/916530/000095014403008491/g83547b5e424b5.htm

The buyout replaced liquid, transparent preferred shares with illiquid nontransparent shares.

On June 21, 2007 Equity Inns announced that it had agreed to be acquired by an affiliate of Whitehall Street Global Real Estate Limited Partnership 2007 ("Whitehall") for $23 per share in cash for its common shareholders, a premium of approximately 28% over Equity Inns' average price over the previous three months. Whitehall is the vehicle through which Goldman Sachs operates real estate investment funds.

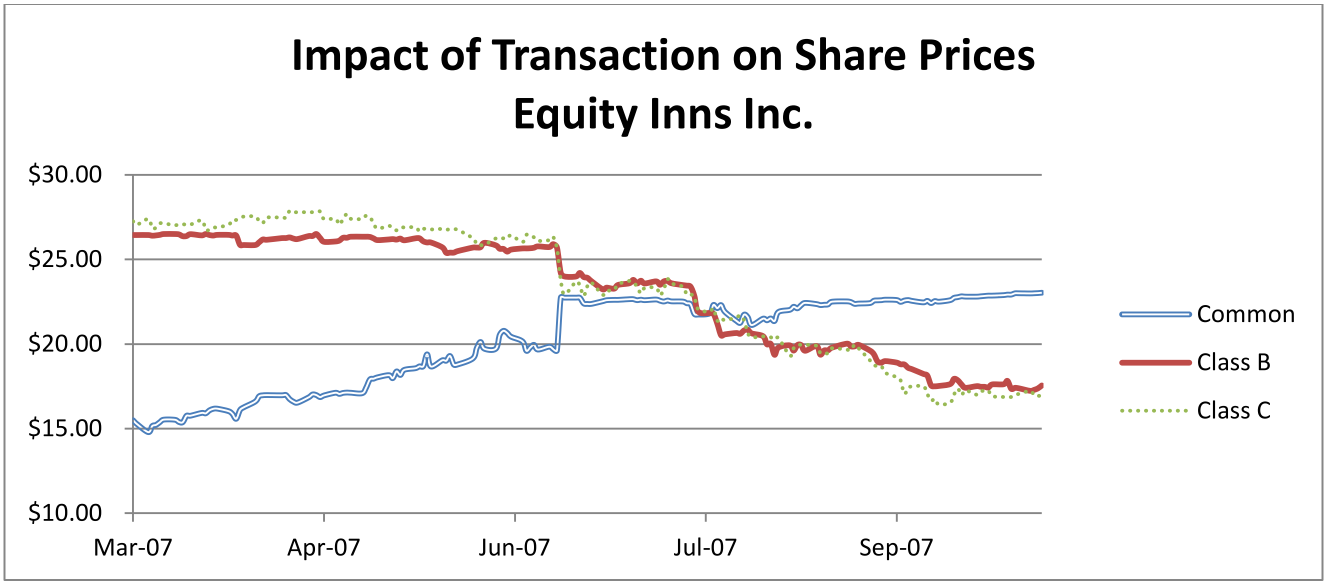
This transaction resulted in substantially higher leverage for the resulting company, which was named W2007 Grace Acquisition I.[13] The preferred shareholders were not permitted to vote on the proposed deal, even though their interests were clearly adversely affected by the deal. Instead of the easily transferable NYSE-listed shares that they held, their old Equity Inns Class B preferred shares were cancelled and replaced with the W2007 Grace Acquisition I Class B preferred shares. The Equity Inns Class C preferred shares were likewise replaced with W2007 Grace Acquisition I Class C preferred shares. The company filed a Form 15 to deregister the shares on November 6, 2007, relying upon Rules 12g-4(a)(1)(i) and Rule 12h-3(b)(1)(i) to deregister.[14]

The following chart shows the stock price history of the Equity Inns common, preferred Class B, and preferred Class C from March 2007 through the consummation of the buyout by Whitehall/Goldman. The price of the common stock jumped on the date of the announcement, and likewise the price of the preferred shares fell on the same date and continued to fall as the market began to digest the impact of the transaction on the preferred shareholders.

Both Class B and C preferred shares generally traded above their $25 redemption value early in 2007. They began falling upon the announcement of the merger and were approximately $17 just before the consummation of the buyout in October 2007.

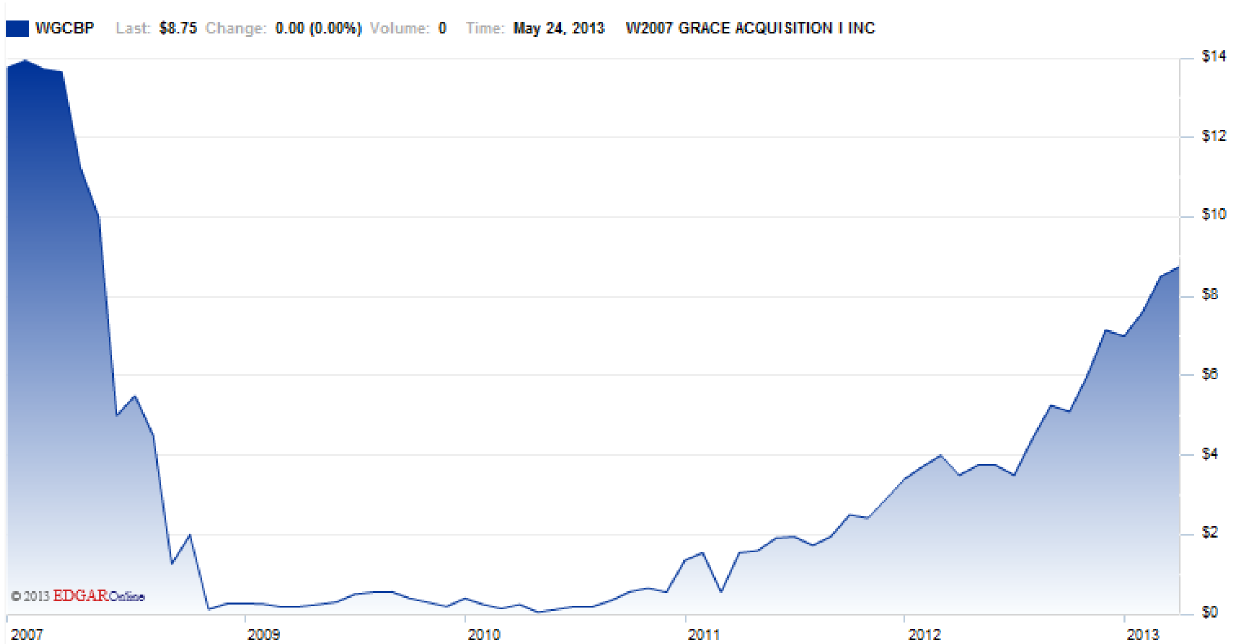
[13] The deal prospectus is located at http://www.sec.gov/Archives/edgar/data/916530/000095014407006965/g08518pmprem14a.htm. Hereafter "Company" refers to w2007 Grace Acquisition I and its various affiliates.

[14] http://www.sec.gov/Archives/edgar/data/916530/000095014407009932/g10335e15v12b.htm These rules basically permit deregistration if the securities are held by less than 300 persons.

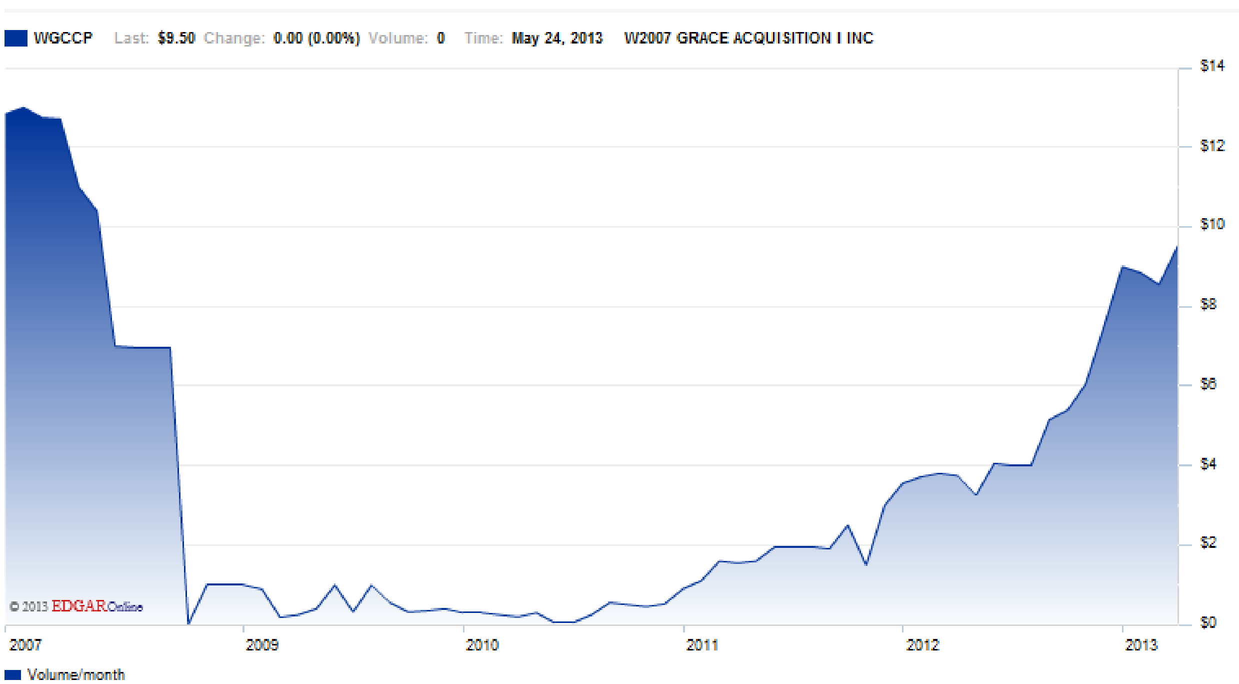


The preferred Class B shares now trade in the over-the-counter markets with the ticker symbol WGCPB.[15] The following chart displays the stock price history of the Class B preferred shares from 2007 to the present. Note that the preferred shares of the resulting entity have traded at prices significantly below their $25 offering and redemption price. In late 2007, the shares traded near $14, crashing to near zero during the financial crisis. Recent trades are in the $9 range.

[15] There are also internet message boards related to the stock such as http://investorshub.advfn.com/W2007-Grace-Acquisition-I-Inc-WGCBP-22066/



The Class C preferred shares trade under the ticker symbol WGCCP. Their price has followed a similar price trajectory, as seen in the following chart:



There are restrictions on ownership of more than 9.9% of the preferred shares.

The 2003 prospectus for the Class B preferred shares indicates that no shareholder may own more than 9.9% of the shares.[16] This was repeated in subsequent 10-K Annual Reports filed with the SEC: "*Ownership Limitation*. Our charter provides that no person may directly or indirectly own more than 9.9% of our common stock or any series of our preferred stock without a waiver from our Board." Equity Inns 10-K for Fiscal Year end 2005 [17]

These ownership restrictions still appear in the most recent amended and restated charter posted on the equityinns.com web site. [18]

The preferred shares are no longer even DTC-eligible for electronic settlement.

In the United States, most stock trades are settled electronically through the services of the Depository Trust Company ("DTC"), a subsidiary of the Depository Trust and Clearing Corporation. When a brokerage firm customer holds shares in a brokerage account, the brokerage firm usually does not sit on paper stock certificates. In general, most brokerage firms, either directly or indirectly through their clearing firms, hold their customers' shares in accounts at DTC. The majority of U.S. equity shares are thus held in street name at DTC.[19] This makes it very easy to settle stock trades electronically. When a stock trade occurs, DTC moves the shares from the seller's broker's account to the buyer's broker's account. [20] This makes settlement cheap and efficient.

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[16] The prospectus states:

This ownership limitation provision provides that, subject to certain exceptions specified in our charter, no shareholder may own, or be deemed to own by virtue of the attribution provisions of the Code, more than 9.9% of (1) the number of outstanding shares of our common stock or (2) the number of outstanding shares of any series of preferred stock. Our board of directors may, but in no event is required to, waive the ownership limitation if evidence satisfactory to our board of directors is presented that such ownership will not jeopardize our status as a REIT. As a condition of such waiver, our board of directors may require opinions of counsel satisfactory to it and/or an undertaking from the applicant with respect to preserving our REIT status.

Any transfer of shares of our common stock or preferred stock that would (1) result in any person owning, directly or indirectly, common stock or preferred stock in excess of the ownership limitation, (2) result in the shares of our common stock and preferred stock being owned by fewer than 100 persons (determined without reference to any rules of attribution), (3) result in us being "closely held" within the meaning of Section 856(h) of the Code, or (4) cause us to own, directly or constructively, 10% or more of the ownership interests in a tenant of our real property, within the meaning of Section 856(d)(2)(B) of the Code, shall be void *ab initio,* and the intended transferee will acquire no rights in such shares of common stock or preferred stock.

[17] http://www.sec.gov/Archives/edgar/data/916530/000095014406002334/g00208e10vk.htm

[18] See the Amended and Restated Charter, http://www.snl.com/Cache/1500020372.PDF?Y=&O=PDF&D=&FID=1500020372&T=&IID=103147, accessed May 25, 2013.

[19] DTC shows up on the books and records of corporations under its street name of "Cede and Company."

[20] This is a very simplified description of the U.S. settlement system. For more information, see http://www.dtcc.com/downloads/about/US%20Model%20for%20Clearing%20and%20Settlement.pdf.

If a stock is not eligible to be transferred at DTC, then it is much more expensive to settle trades in the stock. Because of the large expense involved, many brokerage firms will not let their customers buy stocks that are not eligible for electronic settlement at DTC ("DTC-eligible").

The original Equity Inns preferred shares were NYSE-listed and DTC-eligible. They could be bought and held in any U.S. brokerage account. The replacement W2007 Grace Acquisition I preferred shares are not DTC-eligible. This reduces the pool of investors willing to invest in the shares, and raises transactions costs for investors who are willing to trade the shares.

It would have been a routine bit of paperwork to obtain DTC eligibility for the replacement preferred shares that were given to the Equity Inns preferred shareholders after the 2007 buyout.[21] As Goldman is a large and well respected firm, the paperwork would probably have been approved by FINRA and DTCC without any difficulty, if the company had bothered to submit it.[22] However, the Company chose not to take the actions needed to make the shares DTC eligible. This could have been a mere honest oversight on the part of the Company, but that is unlikely given the size of the transaction and the sophistication of Goldman, which has organized numerous complex transactions and has undoubtedly dealt with DTC hundreds if not thousands of times. DTC treats the shares as "physical processing only." This means that shareholders have to resort to old fashioned paper certificates in order to trade the shares.

This smells like an intentional decision to suppress the secondary market in the preferred shares. This artificial constriction of the secondary market also artificially reduces the value of the shares. This makes it possible for those in the know about what is going on to pick up the shares at prices far below their intrinsic value. Such an action that is directly harmful to the shareholders is a clear violation of the board of director's fiduciary duty of loyalty. An intentional suppression of the prices of the preferred shares is a clear manipulation of the type prohibited in Section 10b of the Securities Exchange Act.

Furthermore, forcing investors to go back to using expensive paper certificates not only imposes costs on investors, it also imposes the risk that the paper certificates could be lost or stolen. It is thus consistent with investor protection for the SEC to discourage shareholder suppression tactics such as failing to maintain DTC eligibility. The SEC has long encouraged a reduction in the use of physical certificates.[23] The SEC should not reward large issuers that consciously fail to maintain DTC eligibility by letting them deregister.

Company management makes it very hard for existing or potential public shareholders to get basic financial information.

In order to receive any financial information about the company, existing shareholders must submit a written request to the company and pay ten cents a page for the information. Payment must be made by

[21] See http://www.dtcc.com/products/documentation/asset/Securities_DTCEligibility.pdf
[22] Under FINRA Rule 6490, FINRA would also review the transaction.
[23] See, for example, the Concept Release on Securities Transaction Settlement, http://www.sec.gov/rules/concept/33-8398.htm.

cashier's check. I find it odd that shareholders must pay by a cashier's check for the small dollar amount involved, but many of the hotels owned by the Company will accept personal checks for much larger amounts. The company is also very slow to respond to such requests.

Furthermore, the shareholders must sign a broad confidentiality statement promising not to disclose the financial information.[24] The statement is so broad that it appears to apply even to sharing the information with the other shareholders of the company.

Even at the special shareholders' meetings, the company management refused to discuss the financial condition of the company.

The Company stopped paying dividends on the preferred shares.

W2007 Grace Acquisition I ran into financial difficulty and stopped payment of the preferred dividends in 2008. This is not surprising given the high degree of leverage of the Company after the buyout and the financial crisis that occurred during this period.

The Company has failed to fill the director positions belonging to the preferred shareholders.

Under the terms of the preferred shares, failure to pay dividends for six consecutive quarters gives the preferred shareholders the right as a group to elect two directors to the board of directors. The Company appears to have only taken the most minimal steps to appear to facilitate the process. Apparently no nominating committee was formed to nominate and vet two director candidates. Instead, a nomination form was sent to the shareholders that resulted in numerous self-nominated volunteer candidates for the director positions. The company also stated that there would be no compensation for directors, an unusual practice that made it less likely to attract the best candidates. The open nomination process resulted in the unusual situation in which there were multiple candidates for each director position, none of whom had gone through the usual vetting process for director candidates. I have observed many shareholder elections as a shareholder and as an academic, and I do not recall any other corporate director elections outside of proxy contests where there were multiple candidates for each position.

Shareholders received only short self-reported descriptions of the candidates.[25] In some cases, these biographical sketches were only two sentences long. As these brief sketches were wholly inadequate for making informed decisions on how to vote, and the candidates did not go through any serious vetting process, it is not surprising that many shareholders did not vote. There was also no information about the

[24] The shareholder request form is available at http://www.equityinns.com/. Accessed May 25, 2013. The confidentiality statement is attached to the end of this document as an appendix.
[25] The shareholder materials for the March 27, 2012 meeting are on the web at https://materials.proxyvote.com/default.aspx?docHostID=114817, accessed May 31, 2013. I am including a copy with this submission for the Commission's convenience.

other directors or their qualifications, so it would have been impossible to select directors to complement the experience and qualifications of the already sitting directors.

The company went through the motions of holding three virtual shareholder meetings on June 3, 2010, December 14, 2010, and March 27, 2012. The Company claims that a quorum was not present at any of these meetings, and thus no directors were elected to represent the preferred shareholders.

The company also alleges that it retained a proxy solicitation firm for the third failed meeting, although I do not recall receiving any communications from a proxy solicitation firm. If the number of shareholders is really as small as the Company alleges, it should have been fairly simple to get a quorum to vote with just a few letters and phone calls.

As a Goldman affiliate now owns a substantial number of shares, I wonder whether Goldman intentionally did not vote its shares in order to make the elections fail.

Given the lack of a quorum at not one but three (!) special elections, it is telling that the board of directors did not take other actions within its powers to fill the vacant board positions, or to otherwise appoint independent directors to safeguard the interests of the preferred shareholders. The board has the authority to amend its charter and bylaws, except in matters that "materially adversely affect the voting powers, rights, and preferences of the holders of the Series B Preferred Stock."[26] Given that under the current circumstances the preferred shareholders have no representation on the board, a charter or bylaw amendment that reduces the quorum requirements would not adversely affect the rights of the preferred shareholders, but would actually increase the rights by giving the preferred shareholders who do vote the ability to exercise their corporate governance rights.

The board of directors could have appointed directors to fill the vacant board seats.

Indeed, a charter or bylaw amendment would not even appear to be necessary. The Company's bylaws clearly give the board of directors broad powers to fill vacancies on the board.[27] The obvious solution to

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[26] Paragraph 5(b)(6)(C) of the Amended and Restated Charter, dated January 23, 2008. Preferred shareholders also have a right under paragraph 5(b)(6)(B) to call for a special meeting to elect directors: "The Corporation must call such a special meeting upon the request of any holder of record of shares of Series B Preferred Stock." Similar provisions apply to the Class C stock.

[27] The bylaws state: Section 3.3. Vacancies. Vacancies on the Board of Directors by reason of death, resignation, retirement, disqualification, removal from office, or otherwise, and newly created directorships resulting from any increase in the authorized number of directors, may be filled by (i) the shareholders, or (ii) a majority of the directors then in office, although less than a quorum, or by a sole remaining director. If the shareholders of any class or series are entitled separately to elect one or more directors, a majority of the remaining directors elected by that class or series may fill any vacancy among the number of directors elected by that class or series. The directors so chosen will hold office until the next annual election of directors and until their successors are duly elected and qualified, unless sooner replaced by a vote of the shareholders. If there are no directors in office, then an election of directors may be held in the manner provided by statute.

the failure to get a quorum at the meeting of the preferred shareholders would be for the board (or its Nominating and Governance Committee, if it has one) to do the appropriate due diligence and background checks on the nominees in order to weed out any clearly unsuitable candidates. The board would then elect the two remaining candidates who had received the most votes from the preferred shareholders. These directors would then serve until the next election.

The board did not do so, but instead chose to delay by going through the motions of holding another election. Why did they not do so? Was it lack of care? Bad legal advice? Or was it an intentional stonewalling tactic to prevent the preferred shareholders from exercising their governance rights? The veil of secrecy around the Company's activities leads one to suspect the worst.

<u>The Company appeared to have more than 300 preferred shareholders of record.</u>

In conjunction with one of those shareholder meetings, I exercised my right to examine the list of shareholders, which was dated May 18, 2010. I believe that was the list of shareholders of record. There were 379 shareholders of record on the list. Given that many of the names on the list were street names, it is likely that the number of beneficial shareholders was much higher. If this list was accurate, then the Company had more than 300 preferred shareholders of record. As the petition implies that the number of shareholders of record has not substantially changed since the buyout, this would imply that there were more than 300 earlier.

Also, this list apparently did not include the 100 Class D shareholders, who are also equity shareholders in W2007 Grace Acquisition I. They should also be counted.

In its petition, the Company now alleges that it had less than 300 shareholders of record. Then why did the list I was shown have 379 names on the list? It would appear that the Company may now be using some creative counting measure to get below the magic 300 number. Admittedly, the names of some firms appeared more than once on the list. For example, Delaware Charter Guarantee and Trust appeared 11 times. However, each of these entries was clearly that of a different named shareholder, and none of those shareholders were named "JMS" or "Sullivan," the name associated with the trusts in the petition. It is plainly obvious to the eye that such apparent repetitions are not mere duplications, but represent different investors.

The company's Form 15 filing in November 2007 indicated that it had less than 300 shareholders of record.[28] As it apparently did have more than 300 shareholders, it apparently made a mistake and has a

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Note that this section states "vacancies." It does not restrict the Board's power to vacancies of common-stock elected directors only, so it would apply to any vacancy, including vacancies of the preferred director slots. The Board's power also clearly applies to "any increase in the authorized number of directors," which would include the increase as a result of the addition of two directors to represent the preferred shareholders. http://www.snl.com/Cache/1500031688.PDF?Y=&O=PDF&D=&FID=1500031688&T=&IID=103147.

[28] Rule 12g-4(a)(1)(i) states: Termination of registration of a class of securities under section 12(g) of the Act shall take effect 90 days, or such shorter period as the Commission may determine, after the issuer certifies to the

duty to correct this mistake by withdrawing the incorrect Form 15 and making the appropriate filings with the Commission.

<u>The Company is not above playing games with the number of shareholders when it suits the Company.</u>

Another oddity in this soap opera is that the Company issued additional Class D preferred shares in January 2008. [29] The financial crisis was clearly brewing at this point, and the Company had already entered into the financing agreements that would soon preclude payment of dividends. It should have been pretty clear to everyone that a highly indebted entity like the Company was already in or soon would be in financial difficulty. Goldman was well aware of the financial crisis. Why would the Company issue preferred stock under such conditions?

REITS are required to have at least 100 shareholders.[30] It appears that the Company, despite having hundreds of existing preferred shareholders, was concerned that the number of shareholders would fall below the 100 minimum and thus lose its REIT status. Why would the Company be concerned that the number of shareholders would fall so far when it already had many times the minimum number of shareholders? One possibility is that the Company had intentional plans to freeze out the Class B and Class C shareholders by eliminating the dividend, eliminating DTC eligibility, and then slowly acquiring the preferred shares on the cheap.

Indeed, the petition states that the Company issued such shares in a distribution to employees of affiliates "for REIT tax compliance purposes" in January 2008. Given that the number of Class A and B preferred shareholders of record in January 2008 was well over 100 shareholders and likely to remain so, there was no obvious reason to make such a distribution at that time. If the number of shareholders of record fell later, the distribution could have been made later when it became necessary. Such a distribution would have been totally unnecessary at such a time in the midst of a financial crisis, unless the Company had plans to use the financial crisis as an excuse to wipe out the Class B and C preferred shares.

Commission on Form 15 (17 CFR 249.323) that the class of securities is held of record by:
(i) Less than 300 persons;

Likewise, Rule 12h-3(b)(1)(i) states: The classes of securities eligible for the suspension provided in paragraph (a) of this section are:
Any class of securities held of record by:
(i) Less than 300 persons;

[29] According to the petition, "In January 2008, the Company issued 125 shares of Series D, the maximum amount authorized for issuance under the Company's charter, to 112 employees of an affiliate of the Company for REIT tax compliance purposes."

[30] See, for example, http://www.sec.gov/answers/reits.htm.

<u>Goldman's acquisition of 35% of the shares apparently violated the 9.9% ownership limitation.</u>

The Company announced on September 17, 2012 that "a sister company had recently acquired approximately 35%" of the preferred shares. This was at the time when the preferred shares were trading in the $4 and below range. Here is the announcement:

W2007 GRACE ACQUISITION I, INC.
SERIES B AND SERIES C PREFERRED SHARES

IRVING, TX — September 17, 2012 — W2007 Grace Acquisition I, Inc. (the "Company") today announced that a sister company of the Company has recently acquired approximately 35% of the aggregate amount of issued and outstanding Series B and Series C preferred shares of the Company, which acquired shares remain outstanding. That sister company and its affiliates (including the Company) may also from time to time consider entering into one or more other transaction with respect to the Company, including the acquisition or disposition of securities of, or interests in, the Company (including additional transactions with respect to the Series B and Series C preferred shares of the Company).

The Amended and Restated Charter of W2007 Grace Acquisition I, Inc. is available on the Company's website, <u>www.equityinns.com</u>, and contains a description of the 8.75% Series B Cumulative Preferred Stock and 9.00% Series C Cumulative Preferred Stock.

CONTACT: W2007 Grace Acquisition I, Inc.
Dan Smith

In its petition, the Company states "Of the 3,450,000 shares of Series B outstanding, 1,018,250, or approximately 29.5%, are held beneficially by an affiliate, and of the 2,400,000 outstanding shares of Series C, 1 ,000,000, or approximately 41.7%, are held beneficially by the affiliate."

As stated above, there was and is a 9.9% limitation on ownership of the preferred shares. This acquisition appears to be in direct violation of the 9.9% limitation. Even if the board of directors voted to waive the limitation, they apparently did not bother to change the charter. Does this mean that no one else will be permitted to buy more than 9.9% and only Goldman can buy more than 9.9%? If so, why? Or is it just another sign of carelessness by the board?

<u>Goldman's purchase of shares just before the price doubled smells like insider trading.</u>

It is quite clear that the Company and its "sister" company routinely possess material nonpublic information regarding the Company. Indeed, the Company as a matter of policy does not publicly release any financial information. As mentioned above, even public shareholders have to sign non-disclosure agreements in order to access what limited information the Company is willing to give out. It is thus likely that when the "sister" company acquired 35% of the preferred shares, that the sellers did not have any current information about the affairs of the Company. Even if the sellers had received the old financial statements, the financial statements would have been stale ones from the depths of the financial crisis and not indicative of current conditions.

The preferred shares were trading below $4 when the "sister" company was acquiring shares. They are now trading in the $9 range. For the Company's "sister" to purchase such shares before the stock price doubled is extremely suspicious and appears to be a violation of SEC Rule 10b5-1 on insider trading. The insiders clearly had a more up-to-date and accurate picture of how the economic recovery was affecting the Company and the likelihood of a resumption in the payment of dividends or redemption of the preferred shares.

The acquisition of 35% of the shares may have violated Tennessee's Investor Protection Act.

The Company is incorporated in Tennessee. Tennessee's Investor Protection Act requires that takeover offers be publicly registered.[31] The Investor Protection Act defines a takeover offer as an "offer to acquire or the acquisition of any equity security of an offeree company, pursuant to a tender offer or request or invitation for tenders, if after the acquisition thereof the offeror would be directly or indirectly a beneficial owner of more than ten percent (10%) of any class of the outstanding equity securities of the offeree company;"[32]

I do not believe that any public offering has been announced. If the shares were acquired in a series of open market transactions, then it would appear that this was a takeover offer that needed to be publicly registered.

The Company's board of directors has breached its fiduciary obligations to the preferred shareholders.

It is a well settled area of law that a board of directors has a fiduciary obligation to both common and preferred shareholders. [33] The fiduciary obligation of loyalty calls for the directors to place the interest of the company and its shareholders above their own personal interests. The numerous actions that have been taken to suppress and thus harm the preferred shareholders are clear evidence that the board's loyalty has not been to its shareholders.

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[31] Tennessee Statues, Title 48, Chapter 103 Part I.
[32] http://statutes.laws.com/tennessee/title-48/chapter-103/part-1/48-103-102
[33] See Gary V. Mauney, Directors' Duties to Common versus Preferred Shareholders—The Aftermath of the Delaware Chancery Court's Decision in the In re Trados Inc. Shareholder Litigation. http://www.willamette.com/insights_journal/11/autumn_2011_4.pdf

The Company's major financing transactions are with Goldman-affiliated companies. Such transactions represent glaring conflicts of interest. The standard procedure when a board of directors is faced with such a conflict is for the board to appoint a special committee consisting solely of independent directors in order to evaluate the transactions. The Company could not have possibly done so, since none of its directors are independent. Indeed, the president of the Company, Mr. Todd P. Giannoble, who is on the board of directors, is also president of Archon Hospitality, L.P., which manages many of the company's properties. The many opportunities to tunnel assets out of W2007 and into Archon or other Goldman-affiliated entities to the detriment of the preferred shareholders through sweetheart deals are obvious, and require appropriate controls for the protection of investors.

Likewise, a board of directors has a fiduciary obligation of care. The less-than-serious attempts to fill the board positions belonging to the preferred shareholders show that the board was careless at best and disloyal at worst.

It is not clear whether the board officially waived the ownership restrictions in the charter in order to permit a sister company to acquire 35% of the preferred shares. If the board did not enforce the charter provisions, it was careless.

Given this history of harmful actions against the shareholders and the glaring conflicts of interest, it is even more important that the Commission take action to assure appropriate transparency to protect investors and to enforce compliance with the securities laws.

III. A Response to the Company's Petition

<u>Granting the requested exemption would harm investors even further.</u>

The Company is requesting the Commission to grant an exemption under Section 12h of the Securities Exchange Act.[34] This filing appears to be an admission that the Company is in violation of the Exchange Act's registration and reporting requirements and yet is still trying to wiggle out of its responsibilities to deal fairly with its preferred shareholders.

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[34] The referenced section reads:
12(h) The Commission may by rules and regulations, or upon application of an interested person, by order, after notice and opportunity for hearing, exempt in whole or in part any issuer or class of issuers from the provisions of subsection (g) of this section or from section 13, 14, or 15(d) or may exempt from section 16 any officer, director, or beneficial owner of securities of any issuer, any security of which is required to be registered pursuant to subsection (g) hereof, upon such terms and conditions and for such period as it deems necessary or appropriate, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer, or otherwise, that such action is not inconsistent with the public interest or the protection of investors. The Commission may, for the purposes of any of the above-mentioned sections or subsections of this title, classify issuers and prescribe requirements appropriate for each such class.

The statute cites a number of criteria for the Commission to consider in deciding whether or not the petitioner has met its burden to prove that the requested exemption is "not inconsistent with the public interest or the protection of investors." These criteria are:

- The number of public investors,
- Amount of trading interest in the securities,
- The nature and extent of the activities of the issuer,
- Income or assets of the issuer, or
- Otherwise.

Let us examine each of these points.

<u>The number of *public investors* is not the same as *shareholders of record*</u>

In its discussion on the number of public investors, the petition discusses the number of shareholders of record in its discussion of the number of public investors, and it treats the two terms as synonymous. They are not. The statute clearly refers to *public investors* here, not *shareholders of record*. This distinction is an important one. Traditionally, Congress and the SEC have relied upon the number of shareholders of record as a measure of the size of the public interest in a company to determine whether a company is big enough to require registration with the SEC. Given the widespread indirect holding of shares in street name, and the ability of shareholders to designate themselves as "Objecting Beneficial Owners," it is quite difficult for a company to determine the exact number of beneficial shareholders it has.[35] The number of shareholders of record is an easy number to get.[36] The number of public investors is much likely far higher than the number of shareholders of record.

References to holders "of record" appear at least 10 times in the Securities Exchange Act. As far as I have been able to find, the phrase "public investors" appears only once in the Act. Congress clearly recognized that in the gray areas in which the SEC would be called upon to exercise its judgment to determine what is in the public interest or for the protection of investors, the "quick and dirty" number of

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[35] An "Objecting Beneficial Owner" ("OBO") is one who does not permit the brokerage firm that is holding the shares on behalf of the beneficial owner to divulge the shareholder's name or contact information to the issuer. A "Non-Objecting Beneficial Owner" ("NOBO") permits the brokerage firm to divulge the name and contact information to the issuer.

[36] Congress explicitly gave the SEC the ability to define "holders of record." It appears that the definition of securities held "of record" in SEC Rule 12g5-1 is somewhat vague: "…securities shall be deemed to be "held of record" by each person who is identified as the owner of such securities on records of security holders maintained by or on behalf of the issuer…" This is normally interpreted as the number of shareholders directly registered with the company plus the number of holdings on the books of DTC, typically the brokerage firms and custodians who hold shares for their customers, who are the beneficial owners. One could argue that "on behalf of the issuer" includes records maintained indirectly on behalf of the issuer at the brokerage firms and custodians, and thus the beneficial owners would be counted as "of record" because they are on the books and records of their brokerage firms. However, this proceeding should not be decided on technical definitional arguments, but on the merits of what is for the protection of investors.

shareholders of record was not the proper yardstick. The proper yardstick is the number of *public investors*, and Congress set no specific quantitative cutoff here. It is left up to the judgment of the SEC.

Therefore, this petition should not be decided based upon technical arguments over the number of *shareholders of record*, but upon the Commission's judgment as to what is consistent with the public interest and for the protection of investors, using the number of ***public investors*** as one of many criteria.

The Company could have easily used the number of voting materials (including electronic notifications) that it paid Broadridge to send out as an indication of the number of public investors. It did not do so, and gave no reasons for not doing so. Of course, this would have revealed an even larger number than the purported number of shareholders of record.

Even if one accepts for the sake of argument that there are less than 300 shareholders by some technical measure, does it mean that those shareholders deserve no protection at all? The petition makes no attempt to argue that it is in the public interest to abandon those shareholders by cutting off the information needed to create a fair and orderly secondary market for them to exit from their investment when they need to.

The 100 Class D shareholders should also be counted.

Although this case should be decided upon the basis of investor protection and not technical arguments over the number of shareholders, the Class D preferred shareholders should not be ignored. The petition argues that the Class D preferred shares are junior to the Class B and C and thus should not be counted. As it appears that these shares were created to create the appearance of at least 100 shareholders to qualify as a REIT, shouldn't these shareholders be counted as well? It is highly inconsistent for the company to argue in one context that the Class D shareholders should count as shareholders but not here. The Class D shares are still equity claims against W2007 Grace Acquisition I and are still affected by the overall economic performance of the Company and should still be counted.

Amount of trading interest in the securities.

Preferred shares are generally "buy-and-hold" securities and naturally have a relatively low turnover.

In its petition, the Company notes that there have been a number of trading days in which the preferred shares have not traded. This is not surprising, given the steps the Company has taken to suppress the trading in the shares. The shares were delisted, then made ineligible for electronic transfer at DTC, dividends were not paid, and shareholders were and are treated badly. Who would want to buy a stock like this?

What the Company does not do is compare the current over the counter trading with the trading that occurred before the buyout. In May, 2007, the last full month before the announcement of the merger, the NYSE reported 132 trades in the Preferred Class B shares for and average daily volume of 3,552 shares that month. There were also three days in that month upon which the stock did not trade. OTC Markets, Inc. reports an average daily volume of 1,926 shares for the last three months. [37] Thus, we see that the amount of trading interest in the preferred shares is somewhat less than, but still quite comparable to, the trading interest in the shares when there were listed on the NYSE.

Furthermore, the petition makes no attempt to define what level of trading interest is too low to merit the shareholder protection brought about by the filing of the required statements with the SEC. Given that this low level of trading activity appears to be the result of deliberate actions by the Company to suppress trading activity by not keeping the shares DTC-eligible and not publicly releasing financial information, the SEC should not use the current level of trading activity as an indicator that investors do not need to be protected from creeping expropriation by the Company.

It is also important to look at the total monetary size of the outstanding securities. There are 3.45 million Class B shares outstanding and 2.4 million Class C shares. At their redemption value/offering price of $25 per share, these securities are worth $146 million, even more if we count the accumulating unpaid dividends. At the currently artificially depressed market value of $9, they are worth approximately $50 million. This is not small change we are dealing with here.

<u>The nature and extent of the activities of the issuer</u>

One of the criteria that the SEC is directed by the statute to consider is the "nature and extent of the activities of the issuer." The petition does not devote a full section to this, and with good reason, because it probably does not want to draw the Commission's attention to the Company's activities.

It is already clear that the issuer is a multi-billion dollar entity run by very sophisticated people. It is also clear that the activities of the issuer and its affiliates are consistent with:

- Efforts to suppress the number of preferred shareholders and thus suppress a fair and orderly secondary market for the preferred shares
- Failing to publicly disseminate financial information that is necessary for a fair and orderly secondary market.
- Failing to use due care to facilitate shareholder elections
- Failing to enforce charter limitations on preferred stock ownership
- Failing, perhaps intentionally, to keep the stock DTC-eligible
- Misrepresentation of the number of shareholders of record in SEC filings
- Trading when in possession of material nonpublic information
- Self-dealing transactions with affiliates

[37] http://www.otcmarkets.com/stock/WGCBP/quote accessed May 27, 2013.

There may well be innocent explanations for any or even all of these actions of the Company. Indeed, maybe the Company just got bad legal advice and was advised to mistreat the preferred shareholders in order to keep the number of shareholders under the magic 300 number and thus evade its reporting requirements.

However, the veil of secrecy that the Company has erected around its activities leads one to naturally suspect that many more things may be amiss. If the Company's hands are clean, it should not fear disclosure. The Company, and its owner, Goldman, Sachs, and Company, should welcome the opportunity to dispel the cloud of suspicion that these activities have created.

Income or assets of the issuer

The petition downplays the size of the Company. This Company is no small business. The petition states that the assets of the company as of December 31, 2012 are $1.6 **billion**. For the record, I will note that the 2009 consolidated financial statements, the most recent ones that I have handy at the moment, showed total assets of $1.9 billion and total revenue of $379 million. I have not examined the 2012 financial statements, but the reduction in assets of $300 million, in the midst of the real estate recovery, is curious and raises additional concerns about whether or not assets are being tunneled out of the Company to the detriment of the preferred shareholders through sweetheart deals with affiliated entities. Additional transparency may lay these suspicions to rest.

The assertion that the company has a "small economic interest" is laughable.

In its petition, the Company asserts that it "it is simply a real estate investment firm with a small economic interest in 130 hotels and no employees." This is simply absurd. On its balance sheet of December 31, 2012, it reported assets of about $1.6 BILLION. I doubt whether anyone would call $1.6 billion a "small economic interest." This type of legalistic misrepresentation is unfortunately representative of how the Company has treated its preferred shareholders and it looks like it is attempting to treat the SEC and its staff with the same degree of arrogance.

The petitioners' assertion that the company has "no employees" is similarly misleading.

Likewise, the assertion that such a billion dollar entity has "no employees" is another attempt to mislead the Commission and its staff into thinking that the Company is some little mom and pop company that is being victimized by some psychotic shareholders. The Company's 2009 consolidated financial statements indicate over $90 million in payroll and benefits. The company appears to have a full slate of officers, and I doubt whether they are working for free. The petitioner's attorneys appear to be attempting to hide behind some legal fig leaf of separation between various corporate shells, but somebody is clearly directing the use of Company funds to pay Sullivan and Cromwell to fight this expensive battle against its own shareholders.

On the other hand, maybe the petition is accurate. Maybe the board has been so careless and derelict in its duties that it lets the company be run by individuals who don't work for the company but who have serious conflicts of interest?

<u>An exemption would be inconsistent with the public interest and the protection of investors.</u>

For all of the reasons above, it is clear that the best way for the SEC to protect investors is to apply the disinfectant of sunlight.

The SEC should reject the petition and require to the Company to register its preferred shares with the SEC and thus file all of the required financial statements, including the reports that should have been filed from 2008 to the present. This case should also be referred to the SEC's Division of Enforcement for investigation and appropriate action.

<u>Permitting firms to wiggle out of their disclosure obligations on technical grounds sets a bad precedent.</u>

The Commission should also consider the precedent that might be set by this case. The Company is attempting to wiggle out of its continuing disclosure obligations through technical sophistry in counting the number of shareholders of record and egregious acts of shareholder suppression. The shareholders have already been severely hurt by the buyout and the subsequent actions of the Company. Permitting issuers to get away with such actions sets a bad precedent that will encourage other issuers to callously disregard their shareholders and engage in similar acts of shareholder suppression.

<u>Billion dollar companies should not be rewarded for lack of DTC-eligibility.</u>

The Commission has long supported efforts to improve the efficiency of our clearance and settlement system. Indeed, the Commission has a statutory mandate to consider efficiency, along with competition, capital formation, and protection of investors in its rulemaking activities.[38] One part of this modernization effort has been the move away from paper stock certificates to the more efficient electronic holdings.

In this case, the net result is that over $100 million in securities issued by a billion dollar enterprise have been converted from securities that are DTC-eligible for electronic settlement to securities that are "physical processing only." When I tried to move my shares from one brokerage firm to another I was

[38] For example, see Section 3(f) of the Securities Exchange Act.

sent a paper certificate! The Commission should not encourage such regression to the inefficient practices of the past. Denying this petition would discourage shareholder suppression tactics that promote inefficiency.

<u>What is the Company hiding?</u>

It mystifies me as to why the Company is going to such great lengths as this proceeding to avoid the required public filings. The Company already compiles audited financial statements, so it should not be costly to produce them. There are attorney costs involved with filing the forms with the SEC, but those are probably a lot less than the cost of this proceeding. I doubt whether shareholders would be upset if the company had made regular disclosures about the financial condition of the company, even if they weren't posted on the SEC's EDGAR system. What is the Company trying to hide? The company's efforts to hide its activities from the public create a natural suspicion that it is doing something bad. As "sunlight is the best disinfectant," the Company should be made to live up to its obligations to provide continuing information to its shareholders.

<u>Even if the petition is granted, the Company should be required to publicly disseminate information on its web site, restore DTC-eligibility, and facilitate director elections.</u>

Alternatively, even if the Commission decides to grant the petition, the Commission should exercise its statutory power under Section 12(h) to impose terms and conditions on the Company in order to protect investors. Appropriate terms and conditions would include the following:

- The Company must post and maintain on its web site without delay financial information in its possession on its own web site and some other easily findable web site such as Yahoo Finance or otcmarkets.com. This financial information would include annual and quarterly financial statements.
- The Company must promptly post notices of material events on its web site comparable to what would be posted in 8-K filings.
- The Company must post timely information on the share holdings and transactions of officers, directors, and 5% owners of any class of securities
- The Company must take the requisite steps to make the Class B and Class C shares once again DTC eligible
- The Company must take the necessary actions to facilitate the election of directors by preferred shareholders, including providing appropriate compensation, indemnification, and insurance for directors of a billion dollar publicly corporation.
- The Company must file progress reports with the SEC in 30 days and again in one year documenting its compliance with these terms.

If you have any questions, feel free to email or call me.

Respectfully submitted,

James J. Angel, Ph.D., CFA

Appendix One

Shareholders are required to file this confidentiality acknowledgement with the Company before receiving financial information.

ACKNOWLEDGEMENT:

The Shareholder acknowledges that the information contained in the Shareholder Package or any other materials previously provided or to be provided in the future by the Company (collectively referred to as "Company Confidential Information"), is and shall be confidential in nature and that the Shareholder has received or will receive such information solely because of his/her/its status as a shareholder of the Company. Furthermore, except as otherwise authorized by the Company, the Shareholder agrees that he/she/it will not at any time, whether during or after the cessation of the Shareholder's status as a shareholder, disclose, distribute, disseminate, or make public any information included in the Shareholder Package or other Company Confidential Information, and that the Shareholder will keep strictly confidential all information contained in the Shareholder Package or other Company Confidential Information. Notwithstanding the foregoing, in the event the Shareholder is required to disclose any information contained in the Shareholder Package or other Company Confidential Information pursuant to the order or requirement of a court, administrative agency, or other governmental body as a result of actions taken by a person or entity not affiliated with the Shareholder, the Shareholder may disclose such information, provided that, to the extent possible, the Shareholder shall provide the Company with reasonable advance notice thereof to enable the Company to seek a protective order to prevent such disclosure. By signing below, the Shareholder represents that he/she/it is the owner of the type and number of shares reflected on page 1 of this Shareholder Request Form as of the date noted below.

Name of Shareholder:____________________
Signature:____________________
Printed Name:____________________
Title (if applicable):____________________
Date:

W2007 Grace Acquisition I, Inc.
6011 Connection Drive
Irving, Texas 75039

February 17, 2012

To: Holders of 8.75% Series B Cumulative Preferred Stock and/or 9.00% Series C Cumulative Preferred Stock of W2007 Grace Acquisition I, Inc. (the "Company")

Re: Notice of Special Meeting – March 27, 2012 - Your vote is very important!

Dear Preferred Shareholder:

The purpose of this letter is to notify you, as a holder of record of shares of the Company's 8.75% Series B Cumulative Preferred Stock and/or 9.00% Series C Cumulative Preferred Stock (together, the "Preferred Stock," and each such holder, a "Preferred Shareholder") of a special meeting of the Preferred Shareholders to be held for the purpose of electing two additional directors to the Company's Board of Directors (the "Special Meeting"). The Special Meeting will be held via a "virtual" shareholder meeting on March 27, 2012 at 1:00 p.m. Central Daylight Time. Please refer to the enclosed proxy card for instructions on how to vote via proxy and how to attend the meeting via Internet. **At the Special Meeting, you and the other Preferred Shareholders will be able to cast your vote for the election of a total of two additional directors to the Company's Board of Directors.** The two nominees you select will each receive one vote for each share of Preferred Stock you are entitled to vote. The two nominees who receive the greatest number of "For" votes will be elected as directors. Once elected, the new directors will serve on the Board of Directors until their successors have been duly elected and qualified; provided, however, that the terms of the directors elected by the Preferred Shareholders at the Special Meeting will immediately terminate at such time as the Company has paid the then-current quarterly dividend and all accumulated and unpaid dividends on Preferred Stock to the Preferred Shareholders.

Preferred Shareholders are urged to vote promptly to help avoid the costs associated with the continued effort to conduct business at the Special Meeting.

The Special Meeting was originally called on June 3, 2010. However, only 17% of the outstanding Preferred Stock voted, meaning a quorum of the Company's Preferred Shareholders was not present or represented by proxy on that date. A quorum consists of a majority of the Preferred Stock issued and outstanding and entitled to vote. Because a quorum was not present, the Company was unable to conduct business at the Special Meeting at that time. Accordingly, the Company adjourned the Special Meeting, and reconvened it on December 14, 2010. However, similar to the voting results on June 3, 2010, only 19% of the outstanding Preferred Stock voted. As a result, a quorum was not present or represented by proxy on that date, meaning that the Company was once again unable to conduct business at the Special Meeting at that time. The Company again adjourned the Special Meeting, and will reconvene it on March 27, 2012, in an effort to obtain a quorum. The Company has engaged Morrow & Co., LLC to assist in the solicitation of proxies for the Special Meeting. The Company will incur all costs and expenses in connection with the solicitation of proxies. If a quorum is not present "in person" or by proxy, the meeting will be adjourned again.

Enclosed herewith you will find a proxy card or voting instruction form listing the nominees for the two additional Board of Director positions whose names were submitted to the Company previously in accordance with the November 7, 2011 letter to the Preferred Shareholders. You may also write in a candidate's name on the proxy card in the space provided for that purpose.[1] The proxy card or voting instruction form will allow you to cast your vote by proxy if you are unable or do not wish to participate in the Special Meeting. Also, attached hereto as Exhibit A is a brief biography of each nominee. Please complete and return promptly the enclosed proxy card or voting instruction form in the enclosed self-addressed envelope, or submit your proxy by telephone or the Internet, in order for your shares of Preferred Stock to be represented and voted at the Special Meeting in accordance with your instructions therein. Please note that the biographical information regarding the nominees included as Exhibit A hereto was not prepared, verified, or endorsed in any way by the Company.

The Board of Directors has fixed the close of business on February 3, 2012 as the record date for determining which Preferred Shareholders are entitled to vote at the Special Meeting (the "Record Date"). Only Preferred Shareholders of record as of the Record Date will be entitled to vote at the Special Meeting or any adjournment of said meeting.

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[1] In order for any votes for write-in candidates to be counted, a completed Nomination Acceptance Form must be completed by such candidate and returned to the Company prior to the meeting date. The Nomination Acceptance Form is available on the Company's website (www.equityinns.com).

Your vote is very important regardless of the number of shares that you own. In order to conduct business at the Special Meeting, a quorum of the Preferred Shareholders, consisting of a majority of the Preferred Stock issued and outstanding and entitled to vote, must be present in person or represented by proxy.

Whether or not you plan to attend the Special Meeting, please complete, sign and return, as promptly as possible, the attached proxy or voting instruction form in the accompanying reply envelope, or submit your proxy by telephone or the Internet. If you have Internet access, we encourage you to record your vote via the Internet. If you attend the Special Meeting via Internet, you may cast your vote at that time, which will revoke any proxy previously submitted. If you hold your shares through a broker or other nominee, you should follow the procedures provided by your broker or nominee.

Please let us know if you have any questions or concerns by contacting Dan Smith at (972) 368-2081. Alternatively, if you have any questions or need assistance voting your shares, you may contact our proxy solicitor, Morrow & Co., toll free at (800) 662-5200 or by email at grace@morrowco.com; banks and brokers may call collect at (203) 658-9400.

Sincerely,

Todd P. Giannoble
President
W2007 Grace Acquisition I, Inc.

Voting Instructions on Preferred Stock Directors

The Preferred Shareholders, voting together as a class, are entitled to elect two additional members to the Company's Board of Directors. Please vote for two nominees to serve as the new members of the Board of Directors. The two nominees you select will each receive one vote for each share of Preferred Stock that you are entitled to vote. If you do not vote for any nominee or vote for more than two nominees, your proxy will not be voted, and you will be deemed to have been in attendance at the Special Meeting but to have abstained on the matter.

<u>Exhibit A</u>
Nominees for Director

Art E. Chandler, 65, Senior VP Investments and Financial Advisor, Wedbush Securities, Lake Oswego, Oregon

I have worked in the brokerage business for over 42 years. Was a founding partner of Charter Investment Group (1979). The last 10 years have been with Wedbush Securities as a stock broker and registered investment advisor.

Eric L. Clarke, 76, Retired CPA & Management Consultant, San Francisco, California

I am a retired California CPA with an M.A. in Accounting and International Business. My career has been spent mainly in various auditing capacities with the U.S. Defense Dept., PriceWaterhouseCoopers and two large international corporations. In 1978, I started my own management consulting firm, specializing mainly in controllership, internal auditing and fraud investigation. During my career I worked closely with the audit committees of several Boards.

Mr. Clarke was nominated by The Clarke Revocable Trust, Glenn Berry, Stuart Schwarzschild, John Sistrunk, Randall Turner, Shaheen Shaheen, Joe and Betty Carter, and Barry Zolot.

Mark E. Holliday, 43, former Partner, Camden Asset Management

Mr. Holliday has served on the boards of directors of a number of corporations and has extensive experience on board audit committees, including YRC Worldwide, Inc, FiberTower Corporation, Primus Telecommunications Group, Movie Gallery, Inc., Clear Choice Health Plans, Assisted Living Concepts, Inc., Reptron Electronics, Inc., and TELETRAC, Inc. Mr. Holliday received a B.A. in Economics from Northwestern University.

Mr. Holliday was nominated by Broadbill Investment Partners, LP, owner of 570,454 shares of Preferred Stock.

Richard M. Hufnagel, 75, Investment Banker, Denver, Colorado

I have over 50 years experience in the securities industry. Most of my career has been trading and selling fixed income securities to large institutional money managers across the United States. I personally own 1,500 shares of Equity Inns 8.75% Series B Cumulative Preferred Stock and beneficially represent another 1,000 shares held in my brother's account. If elected to the Board to represent the Preferred Shareholders, I will hopefully be in a position to receive current operating financial data, property sales, etc. and assure that the rights of the Preferred Shareholders are upheld.

Mr. Hufnagel was self-nominated and he owns 1,500 shares of Preferred Stock.

Thomas F. Linn, 64, Attorney and Engineer, Lone Tree, Colorado

Mr. Linn holds AB and MS degrees from Washington University in St. Louis, as well as a JD, *cum laude* from St. Louis University. Mr. Linn is a self-employed attorney and has been General Counsel to a Fortune 100 Company and a large Denver-based real estate company and has served on several boards of directors during his career.

Steven D. Scheiwe, 52, Management and Business Consulting, Encinitas, California

Mr. Scheiwe has a BA from the University of Colorado and a JD from Washburn University School of Law. He is currently the president of Ontrac Advisors, Inc., a business and management consulting firm, and serves on the board of directors of FiberTower Corporation, Hancock Fabrics, Inc., Primus Telecommunications Group, Inc., and Inner City Media Corporation.

Mr. Scheiwe was nominated by Broadbill Investment Partners, LP, owner of 570,454 shares of Preferred Stock.

Carl Wegerer, III, age 48, employed by Citigroup, Inc., Mesquite, Texas

Mr. Wegerer is an Assistant Vice President at Citigroup, Inc., where he has worked in Correspondent Lending Operations since May 2005 He focuses on event-driven value opportunities across all parts of the capital structure for his personal investments. He has an MBA in Corporate Finance from University of Dallas and his BBA from Southern Methodist University.

Mr. Wegerer was self-nominated and he owns 1,000 shares of Preferred Stock.

Carl E. Yeaman, 78, retired company owner, Henderson, Nevada

As I have been retired for 25 years. I have the time and knowledge to fulfill the duties of your Board. I have stock in over 50 corporations; some of which have entered bankruptcy over time. I am sure I will be an asset in an independent board position.