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CULTURE

A Tiny Activist Takes on John Malone, Cerberus, and a Cable Giant

180 Degree Capital is battling titans on behalf of stakeholders.

By Richard Teitelbaum

Behind a pizzeria in an alley off the main drag of a New Jersey suburb, a gruff, Lenin-quoting provocateur named Kevin Rendino is plotting an assault on corporate America.

His boldfaced targets: cable czar John Malone of Liberty Media Corp., leveraged buyout mogul Steve Feinberg of Cerberus Capital Management, and Charter Communications, the second-largest U.S. cable company by subscribers.

Each owns preferred stock in Comscore, an advertising analytics firm, and they have been sucking it dry, Rendino says. His fund, 180 Degree Capital Corp., owns 6 percent of Comscore's common stock — and he is incensed.

In an interview at his bare brick office, Rendino has a blunt message for Comscore's board: "We will sue if you don't start representing all shareholders, not just yourselves."

Rendino ticks off a litany of issues weighing on Comscore, whose shares traded recently at 89 cents each. The preferred stockholders reap 7.5 percent in annual dividends — a total of $15.5 million last year — draining company coffers. They also hold six of ten seats on Comscore's board, which was paid a lavish $3.8 million in 2021, or 12 percent of adjusted EBITDA, and a still-fat 7.1 percent last year.

The preferred stock also carries a right to a one-time special cash dividend, which as of July 1, according to Rendino's calculations, will be $65 million — money Comscore doesn't have. The overhang terrifies investors.

"Their hands are definitely in the cookie jar," says Nell Minow, vice chair of ValueEdge Advisors, a corporate governance advisory firm, referring to the preferred holders. "They are benefiting themselves to the detriment of common shareholders."

There's also the matter of the board's lead independent director, Brent Rosenthal, who as former Comscore chairman helped oversee a more than 90 percent decline in the company's stock price.

"Calling someone 'independent' when he is a former executive of the company doesn't make him one," says Minow. "The definition of 'independent' can't be stretched that far."

Rosenthal received $566,499 in compensation last year alone. Rendino wants him out.

180 Degree has harangued Comscore with letters, emails, and phone calls. Though the company has made changes, Rendino finds them insufficient. In March, 180 Degree, with just $100 million in assets, switched its 13G filing to the 13D variety — signaling full-on hostilities.

"Enough is enough," Rendino wrote in a letter filed with the Securities and Exchange Commission. "We aren't going away, and if this board continues to stand in the way of unlocking shareholder value, this will only be the start."

ILLUSTRATION BY II

The letter, addressed to Comscore common shareholders and employees, continues: "This board is making money off the broken backs of employees. They fire you and pay themselves."

Privately, Rendino says the situation "just reeks."

Reston, Virginia-based Comscore is no typical penny stock. It's a vital resource across the media ecosystem. The granular data the company generates about content, audience size, and other metrics is mission critical for clients including digital publishers, television networks, movie studios, ad agencies, and advertisers.

In an emailed statement, Comscore said, "We are aware of the letters of 180 Degree Capital and will continue to engage with them to better understand their perspectives."

The company added: "Comscore's board of directors and executive management team welcome constructive input from all shareholders."

Liberty, Cerberus, and Charter did not respond to emails requesting comment.

At age 56, Rendino is an unlikely rabblerouser, with a penchant for plaid flannel shirts and New York Giants caps. For decades, he was a star large-cap value manager at BlackRock and Merrill Lynch. He witnessed the industry's shift from stock picking to passive investing.

Rendino opted out of his prestige job. At 180 Degree, he is laboring to hammer out gains for abused shareholders, buying beaten-down microcaps, and agitating for change at what he considers poorly run companies.

His battle with Comscore comes as shareholder activism is on the rise. In 2022, the number of new U.S. campaigns hit 882, up 32.2 percent from 667 in 2021, according to research firm Insightia. More activism is expected as the bear market reveals flawed business models, mismanagement, and greed.

Markets have brutalized small-company investors like Rendino — the Russell Microcap Value Index trails the large-cap Russell 1000 Index for the five years ended June 9, with returns of 2.62 percent annualized versus 10.65 percent. It lost 7.27 percent over 12 months, versus a gain of 8.33 percent for the large-cap benchmark.

As a closed-end fund, 180 Degree shares lost 29.98 percent over the past year and traded on June 9 at $4.53, a 31 percent discount to per-share net asset value of $6.52 as of the latest SEC filing for March 31. Shareholders like Ariel Investments have fled.

It's a rough season for a rough trade, prompting Rendino to quote the founder of the Soviet Union in 180 Degree's 2022 fourth-quarter report: "There are decades when nothing happens; and there are weeks when decades happen."

Rendino's rejoinder: "December 2022 felt like a decade. The full year of 2022 felt like a century." 180 Degree fell 4.17 percent in December.

Most weekdays at 8 a.m., the hardcore Mets fan and his three colleagues gather at rough-hewn offices in leafy, suburban Montclair, New Jersey, to ply their trade: bending corporations to their will.

They work the phones, badgering management, haggling over trades, and digging for information to bolster their investment theses. Among 180 Degree's past campaign targets: sandwich chain Potbelly Corp., Jim Cramer's TheStreet, and cloud-based software firm Synacor.

Tactics include pushing for buybacks, restructurings, or putting a company on the block. Rendino has demanded, and received, the head of at least one CEO.

"He's always yapping," says one institutional investor who owns 180 Degree stock. "He seems to like to rant and rave."

One former CEO at a company targeted by Rendino describes him as "cordial with the board but forceful with his thoughts."

Rendino's background doesn't speak to a future as a contrarian-minded scourge.

Kevin Michael Rendino spent his early days in Sheepshead Bay, Brooklyn, a neighborhood of charter boats and seaside restaurants, including Lundy's Restaurant, a family favorite. The suburbs beckoned, and the Rendinos moved to Parsippany, New Jersey, in 1966.

His father, Daniel, was an engineer. His mother, Priscilla, a homemaker, traded stocks. Returning from school in the afternoons, Rendino would find her on the phone with her Gruntal & Co. stockbroker.

At private, elite Newark Academy, Rendino excelled at math and captained the school's baseball team. "He wasn't one to buck the system," says Josh Dvorin, a Newark Academy classmate.

Rendino followed Mom's lead and started picking stocks in high school, including sneaker makers Reebok and L.A. Gear.

Jesuit-run Boston College was a natural destination, as it offered a bachelor's degree in finance.

One undergrad lesson: a disastrous all-in options wager on H.F. Ahmanson, the big California thrift. Rendino lost his $10,000 savings.

He worked summers at brokerages, including Shearson Lehman Brothers, before his 1988 magna cum laude graduation.

Merrill Lynch & Co. was building its asset management business, and the 20-something Rendino was a catch for its analyst program.

On his first day as a full-timer in the asset management division, in July 1990, Rendino strode through Merrill's cavernous Manhattan trading floor, his jacket slung over his shoulder. Hundreds of traders eyed him and began rhythmically clapping. They were welcoming him with a standing ovation, he thought. "How awesome," he thought. "What a great tradition!" Then, he says, his new boss came from behind with a pair of scissors and snipped his suspenders. "Bud, we don't do freaking suspenders on this floor," his boss said. "Don't ever wear them again. Ever. Welcome aboard."

Everybody liked the newbie. "This young kid came in and was so hard-working and talented," says Carrie King, whom Rendino hired for his team at Merrill when she was eight months pregnant. "It was recognized immediately."

Rendino was on the fast track, and by 1993 he was managing a sleeve of the Merrill Lynch Basic Value Fund.

But the Graham and Dodd crowd suffered during the 1997-2000 dot-com bubble, as profitless internet companies like Pets.com and theGlobe.com soared. Rendino's fund, like those of other value managers, bled assets — $1 billion in the first quarter of 2000 alone, he says.

Instead of dot-coms, Rendino recalls being bullish on companies like fertilizer producer Potash Corp. of Saskatchewan, which sported a nearly 6 percent dividend in the late 1990s and traded at or below book value. The brokers responsible for selling the fund to retail investors laughed. "Then they redeemed the fund," Rendino chuckles ruefully.

Unlike most value investors, Rendino was not afraid of tech.

Rendino began buying Apple shares in 2001, not because of a newly reinstalled Steve Jobs but because it was trading for $10 a share, equivalent to cash on its balance sheet.

When Jobs introduced the iPod that year, Rendino groaned. "There's another R&D billion flushed down the toilet," he recalls muttering. Rendino nevertheless doubled the fund's money on its Apple wager, exiting the position in 2004.

Rendino's tenure was successful, with the Basic Value Fund beating the S&P 500 by 100 basis points over nearly 20 years. The fund finished in the top quartile of its peers, and assets swelled from a few million to $13 billion across related portfolios.

In the run-up to the global financial crisis, in 2006, BlackRock bought Merrill's investment management division for $9.7 billion. Three years later, the asset manager scooped up quant powerhouse Barclays Global Investors for $15.2 billion.

Rendino well understood times were changing. The era of stock-picking mutual fund managers was on the wane. "Was I really adding value?" he asked himself. "Let me find an asset class that wasn't indexed and so picked over."

He was lured to small-caps by the prospect of making real change, something rarely possible at big companies.

In 2012, to the astonishment of colleagues, Rendino left BlackRock, founding RGJ Capital, named for his three children. An early bet was Harris & Harris Group, a foundering New York City business development company owning venture-capital-style investments.

Rendino thought he could turn the company around, and its board agreed, handing him the reins in 2017 as he rechristened Harris & Harris as 180 Degree. Rendino slashed expenses, restructured the company as a closed fund, and began unloading illiquid holdings. He ditched $300,000-a-year Manhattan offices for $30,000 digs in Montclair.

The sole Harris & Harris employee Rendino brought with him was CFO Daniel Wolfe, a chemistry Ph.D. from Harvard who became 180 Degree president and Robin to Rendino's Batman, as one observer put it. "The first activism we did was on ourselves," Rendino says. "It was a company going to zero."

It's been an arduous turnaround. And as much as Rendino loudly advocates for the interests of shareholders at the companies he invests in, he assiduously tends to those of 180 Degree, from the cut-rate office space to a new Primo water dispenser that cost just $220. And Rendino slashed the fund's travel and entertainment budget to $9,100 from $110,000.

Scribbled on a white board in Rendino's red brick office are adages he's either penned over the years or cribbed from others. "It always starts with the price." "Nobody knows nothing." "Bad shots happen." And his favorite, "Do the work."

"Write that on my tombstone," Rendino grouses as he scans a pair of secondhand monitors tracking eight major stock holdings.

Rendino, like Berkshire Hathaway CEO Warren Buffett, has a penchant for franchise businesses, because they often sport barriers to entry and pricing power.

An early investment was TheStreet, the online news, data, analysis, and tip sheet forum founded in 1996 by CNBC super-mouth Jim Cramer.

Rendino says he respects Cramer and his work ethic. But by November 2017, TheStreet was struggling and had been posting annual losses "forever."

"The business was in decay," Rendino says.

TheStreet had evolved into two media businesses. The first, a consumer channel, included Cramer's premium stock-picking website in addition to the flagship TheStreet.com site for news and commentary.

The second was focused on businesses. It included RateWatch, tracking mortgage, loan, and other data; BoardEx, for corporate directors; and The Deal, a professional mergers-and-acquisitions news site.

The whole Cramer circus, however, was gushing red ink — $17.5 million worth in 2016 alone. With shares trading at less than $1 apiece, the company was at risk of being delisted from Nasdaq.

One solution was to break it up and sell the pieces — but there were obstacles.

First, Cramer was opposed to auctioning his company.

Second, Technology Crossover Ventures (TCV) had held $55 million of perpetual preferred stock since November 2007. Because of the collapse of TheStreet common shares, however, fair market value at the time was about $3 million.

Investors would offer to buy the TCV position at $3 million. "TCV would throw them out," Rendino says.

He took a board seat to focus on "strategic" options.

180 Degree harnessed its balance sheet. Rendino ponied up $7.5 million to help TheStreet buy out TCV. TheStreet itself kicked in $20 million in cash and issued $6 million of new common stock that it contributed to TCV as well.

"He was a lifesaver," says Eric Lundberg, ex-CEO of TheStreet. "This was a game changer."

The stock was trading at around 80 cents. "We agreed to do the deal at $1.10," says Rendino. "We thought the company was worth $2.50."

Ultimately, 180 Degree owned 16 percent of TheStreet.

Rendino went about disposing of the company's businesses. RateWatch was sold to S&P Global, BoardEx and The Deal found a buyer in Institutional Investor's parent company Euromoney *Institutional Investor* (now Delinian), and the remainder — including TheStreet.com, Cramer's premium investing site, and cash — went to Maven, a media company that owns such properties as *Sports Illustrated* and various websites and has since rebranded itself as The Arena Group.

All told, 180 Degree earned a 150 percent return on the deal. Cramer, through a spokesperson, declined to comment. TCV did not return an email.

A consumer brand was the focus at Potbelly, a chain whose sandwiches garner a passionate following.

Rendino's screens flagged the stock using one of his metrics for restaurant chains, a ratio of enterprise value to revenue of 0.2. Rivals trade at multiples ten times that.

In Rendino's view, the problem in late 2019 was that the Chicago company, under new CEO Alan Johnson, was poorly managed.

Stores and franchises had grown, but so had the company's losses, which surged to $23.99 million in 2019 from $8.88 million a year earlier. The stock traded at less than $5.

Activists Ancora Advisors and Privet Fund Management were already on Potbelly's board and turning up the heat on demands for changes. The company complied, but the stock still sagged.

Rendino thought Potbelly's problem was Johnson, a former consultant whose resume included stints at Walt Disney, Gap, and PepsiCo — but not, to his mind, sufficient restaurant experience.

Responding via LinkedIn, Johnson pointed to his work at Yum! Brands' Pizza Hut, KFC, and Taco Bell, as well as Cheesecake Factory. "When I became CEO, I immediately halted almost all unit growth," he wrote. "Mr. Rendino never allowed the facts to get in his way."

Regardless, Rendino, working with Ancora and Privet, wanted — and got — Johnson fired.

The new CEO was Robert Wright, a former COO at the international division of Wendy's with stints at Checker's Drive-In Restaurants and Domino's Pizza under his belt. Wright focused on organic growth. He declined a salary, Rendino says, asking to be paid in stock.

But Potbelly still needed money, and 180 Degree again stepped up, kicking in $1.2 million for stocks and warrants.

The new team rolled out new products, like a red velvet cookie, and rejiggered sandwich sizes, digital ordering, and catering menus.

While losses tripled in 2020, the prime year of the pandemic, under Wright they fell sharply in 2021. In 2022, Potbelly posted a profit of $4.35 million. Same-store sales surged, rising 18.9 percent year over year in 2022.

Shares rose from $2.24 on July 17, 2020, just before Wright was named Potbelly CEO, to $8.11 on June 9, 2023.

A less successful investment was Armstrong Flooring, a Lancaster, Pennsylvania, flooring manufacturer.

180 Degree CFO Wolfe identified a mispriced asset on the company's balance sheet in 2019 — a factory near Los Angeles International Airport that Armstrong carried on its books for less than $20 million. Wolfe thought it was worth more.

Armstrong's new CEO, Michel Vermette, who had joined from industry leader Mohawk Industries, agreed, and the factory was sold for $76.7 million. Armstrong's shares soared on the news and 180 Degree sold half its position for a 75 percent profit.

But by June 2021, supply chain problems were surfacing nationwide. Wolfe was worried about shortages that could upend Armstrong, specifically the polyvinyl chloride used in luxury tiles. He and Rendino warned Vermette to act: raise prices, locate alternate suppliers, or simply cut costs.

Management instead spent Armstrong's windfall on expansion plans. Margins turned increasingly negative, with Armstrong posting a $29.7 million loss for the September 2021 quarter. By year-end, 180 Degree had sold the rest of its stake. The company filed for Chapter 11 bankruptcy on May 9, 2022.

The fund lost 12 percent on the investment. Rendino takes the heat. "That was a complete failure on us to ascertain management quality," he says.

Vermette did not return a phone call seeking comment.

The signs were bullish when Rendino noticed Comscore. He was familiar with the company because he used its analytics in his own research.

Activist firm Starboard Value held three board seats and was in the process of exiting its positions as Liberty, Cerberus, and Charter bought in, which Rendino thought was a plus.

The three investors seemed like smart, strategic buyers with deep knowledge of the industry.

"We always thought they had a good business with real data assets," Rendino says. "But it was poorly managed."

The first problem arose when Starboard's stake was swapped for the new preferred shares of the incoming investors. That resulted in Comscore being cut from the Russell 2000 Index, which doesn't include preferred stock in its market capitalization calculations. Shares fell from $4 in September 2021 to $2.71 by the spring of 2022.

Rendino is incensed that the six board members representing the preferred holders are separately paid millions on top of the millions in dividends paid to their companies. It is double dipping, he reasons.

Rendino ran spreadsheets showing that the Comscore board compensation is far greater than that paid at comparable companies.

Then, at a Needham & Co. research conference in New York in January, Comscore CEO Jon Carpenter made an upbeat presentation.

"Nobody cared," says Rendino. "All they cared about was the special dividend." It remains an overhang on the common stock.

Rendino wants Liberty, Cerberus, and Charter to exchange all or part of their preferred shares for common stock. And to take any special dividend in common shares, not cash. That would eliminate the overhang, stop the cash drain, and let Comscore be readmitted to the Russell 2000.

180 Degree brandishes a cudgel: the Delaware Court of Chancery, which in 2017 ruled that board members have a fiduciary duty to common stockholders — and them alone.

The court ruled: "A board does not owe fiduciary duties to preferred stockholders."

It would strain credulity if the Comscore board considered approving a special cash dividend as serving the interests of common shareholders, Rendino says.

In an April 20 letter to Comscore's directors filed with the SEC, 180 Degree wrote that the board, Liberty, Cerberus, and Charter are "intent on looting [Comscore's] balance sheet for collective personal gains at the expense of the employees and common stockholders."

"We believe you, [Comscore's] board, have failed in your duties," the letter said.

Recent history suggests companies that ignore the pitbull from Brooklyn do so at their own risk.