

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933

Release No. 9083 / November 12, 2009

SECURITIES EXCHANGE ACT OF 1934

Release No. 60993 / November 12, 2009

INVESTMENT ADVISERS ACT OF 1940

Release No. 2948 / November 12, 2009

INVESTMENT COMPANY ACT OF 1940

Release No. 28996 / November 12, 2009

ADMINISTRATIVE PROCEEDING

File No. 3-13683

In the Matter of

**S4 Capital, LLC and
Sharath Sury**

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS
PURSUANT TO SECTION 8A OF THE
SECURITIES ACT OF 1933, SECTIONS 21C
AND 15(b)(6) OF THE SECURITIES
EXCHANGE ACT OF 1934, SECTIONS
203(e), (f), AND (k) OF THE INVESTMENT
ADVISERS ACT OF 1940, AND SECTION
9(b) OF THE INVESTMENT COMPANY ACT
OF 1940**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Sections 203(e) and (k) of the Investment Advisers Act of 1940 (“Advisers Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against S4 Capital, LLC (“S4 Capital”) and pursuant to Section 8A of the Securities Act, Sections 15(b)(6) and 21C of the Exchange Act, Sections 203(f) and (k) of the Advisers Act, and Section 9(b) of the Investment Company Act against Sharath Sury (“Sury”)(collectively, “Respondents”).

II.

After an investigation, the Division of Enforcement alleges that:

Respondents

1. S4 Capital, L.L.C. (formerly known as Chicago Analytic Capital Management, LLC and Valence Capital Group, LLC) is a Delaware Limited Liability Company located in Chicago, Illinois. It has been registered with the Commission as an investment adviser since March 2000.

2. Sharath M. Sury, 37 years old, is a resident of Chicago, Illinois. Sury has been the CEO and majority owner of S4 Capital since 2001. Sury has held Series 3, 7, and 63 licenses since 1995. Sury is currently a registered representative associated with Chicago Analytic Trading Company.

Facts

3. From December 2005 to February 2006, Sury caused an unregistered hedge fund managed by S4 Capital to engage in undisclosed, unhedged, high-risk trading, primarily in Google stock options, which resulted in substantial losses to the fund. During this period, Sury failed to disclose to investors in the hedge fund with whom S4 Capital had investment advisory agreements, that Sury was engaging in risky, unhedged trading that was contrary to the investment strategy described in the hedge fund's private placement memorandum and their personal investment objectives and that the fund was suffering mounting losses. Sury also sent certain investors emails that lulled them into believing that their investments were profitable and failed to disclose the risky trading and related losses. In total, Sury's undisclosed high-risk trading caused the Hedged Equity Fund to lose all of its assets, totaling approximately \$12 million, in about two months.

4. From February 2003 through April 2006, S4 Capital actively managed two unregistered hedge funds: the CACM Core Equity Fund, L.P. d/b/a/ Hedged Equity Fund, L.P. ("Hedged Equity Fund") and the CACM Market Neutral Fund, L.P. ("Market Neutral Fund") (collectively the "Funds"). S4 Capital was the general partner and the investment adviser to these Funds, which were limited partnerships. Sury assisted in the drafting of the Funds' offering materials and acted as the primary portfolio manager of the Funds. At the beginning of 2005, the Funds' trader left S4 Capital, and Sury also became the trader for the Funds.

5. In March 2003, Sury solicited Investors A, a husband and wife, to enter into an investment advisory relationship with S4 Capital. Sury created an S4 Capital investor supervision agreement and an investment policy statement for these investors. The investment policy statement stated that the Investors A risk tolerance was low, that they shared a clear aversion to downside risks, and that portfolio losses greater than 10% were generally unacceptable. The investment policy statement further provided that S4 Capital would pursue "a prudent blend of capital preservation, liquidity, stable tax-exempt income generation and modest inflation-adjusted capital preservation" and "consistent acceptable rates of return without a significant or meaningful

deterioration of principal.” Sury, through S4 Capital, recommended that the Investors A money be invested in fixed income securities and conservative hedged investments, using “absolute return” strategies that would protect against downside risk and provide liquidity. Based on the investment supervision agreement and policy statement, Investors A invested approximately \$40 million with S4 Capital.

6. In the fall of 2005, after experiencing a period of low returns on their original investments with S4 Capital, Investors A informed S4 Capital’s President that they wanted to withdraw their money, totaling \$51.9 million, from S4 Capital and invest it elsewhere.

7. At the end of November 2005, Sury and S4 Capital’s President met with Investors A in an attempt to retain them as S4 Capital clients. During this meeting, Sury gave a PowerPoint presentation to Investors A and provided five investment options. Sury recommended that Investors A invest in what was presented as a “barbell” investment approach. Sury described this investment approach as a continuation of Investors A diversified portfolio, which limited volatility, limited downside loss, increased transparency, and increased liquidity. This investment strategy was to be comprised of a stable source of capital preservation through investments in the bond market and a source of capital growth through investments in hedged equities. For this latter aspect of the proposed strategy, Sury recommended the Hedged Equity Fund.

8. Investors A were also provided with a copy of the Hedged Equity Fund’s private placement memorandum, which stated that the fund’s investment objective was “to provide investors with participation in equity markets with reduced exposure to the markets overall volatility” and that the fund would “seek superior overall relative rates of returns by limiting downside risks through hedging or reduced equity exposure and actively participating in the upside through increased market exposure.” It further stated that the fund’s investment approach was “to manage a diversified portfolio of U.S. common stocks, equity index securities and equity options in order to be highly correlated to the broad movements in the U.S. stock market on the upside and less correlated on the downside,” that “the investment will be closely monitored on an ongoing basis for continued positive momentum,” and that [p]ositions will be eliminated when they no longer exhibit positive characteristics.”

9. Sury’s oral and written statements to Investors A did not truthfully describe his investment management of the Hedged Equity Fund.

10. Beginning in at least October 2005, Sury, through S4 Capital, used risky and unhedged trading strategies for the Hedged Equity Fund and the Market Neutral Fund, causing them to experience an enormous amount of volatility.

11. In 2005, S4 Capital’s Operations and Compliance Officer (“OCO”) prepared internal periodic “flash reports” of the Hedged Equity Fund’s performance. The OCO distributed these reports several times a week via email to Sury, among others. The flash reports included a “risk metrics” section which provided a comparison of the volatility of the Hedged Equity Fund’s performance to the volatility of general market indices, including the S&P 500 index. The November 23, 2005 flash report stated that the Hedged Equity Fund’s volatility for the preceding

30 trading days, 60 trading days, and year had been 77.35%, 93.26%, and 59.12%, respectively. In contrast, the S&P 500 index volatility was reported as having been 12.02%, 11.18%, and 10.53%, respectively, for those same time periods.

12. In addition, on October 20, 2005, Sury placed at least 77% of the Market Neutral Fund's equity and approximately 9% of the Hedged Equity Fund's equity in unhedged, Google options that were expiring in just two days. These trades were levered positions which were extremely risky and far from being market neutral. Sury's trades were in effect a wager that Google's third quarter earnings would be higher than analysts' expectations. At the end of the trading day on October 20, 2005, Google announced third quarter revenues of \$1.578 billion and earnings per share of \$1.32. Analysts had previously forecasted revenues for the quarter of \$892 million and earnings per share of \$1.25. On October 21, 2009, Sury sold the Google options, realizing a 241% gain for the Funds. While Sury's trading strategy had produced large returns, the strategy was extremely risky and inconsistent with the Funds' stated investment strategies.

13. After completing the October trades in unhedged, Google options, S4 Capital ceased trading for the Hedged Equity Fund. S4 Capital also began closing down the Market Neutral Fund.

14. Sury knew that the Hedged Equity Fund's portfolio was far more volatile than the S&P 500 index. He also knew that, as expressed in Investors A's investment policy statement, portfolio losses greater than 10% were generally unacceptable. Sury nonetheless advised Investors A to invest in the Hedged Equity Fund, the historical volatility of which vastly exceeded a 10% downside risk level, and concealed from Investors A the historical and contemporaneous risks and volatility of the Hedged Equity Fund.

15. At the beginning of December 2005, based on the representations that they received, Investors A transferred approximately \$8.25 million of the \$51.9 million they had invested with S4 Capital to the Hedged Equity Fund. They also left the remainder of their investment with S4 Capital in bonds, cash, cash equivalents, and non-affiliated, third-party funds.

16. On November 30, 2005, the Hedged Equity Fund had a balance of approximately \$3.73 million. Investors A investment in the Hedged Equity Fund thus more than tripled the size of the Fund.

17. Prior to Investors A investment in the Hedged Equity Fund, six trusts had invested approximately \$4 million in the Hedged Equity Fund in 2003. These Trusts were all managed by the same trustee, Investor B. Investor B was also an investment advisory client of S4 Capital. Before Investor B made these investments in the Hedged Equity Fund, Sury had created an investment policy statement stating that Investor B's investment objective was to pursue a long-term growth and income strategy, while achieving an expected return of 4-7%. Investor B wanted moderate capital appreciation with capital preservation. Sury also provided Investor B with the Hedged Equity Fund's private placement memorandum, which contained the representations discussed above.

18. Contrary to the representations made in the Hedged Equity Fund's private placement memorandum and Sury's oral presentations to Investors A, Sury, through S4 Capital, continued to cause the Hedged Equity Fund to engage primarily in high-risk stock and options day-trading, including trading in Google stock and options. Sury failed to disclose this extremely risky trading and the fund's mounting losses resulting from his risky trading to Investors A and B.

19. Sury also sent Investors A several emails that falsely reassured them that the Hedged Equity fund's investments were consistent with the Fund's and Investors A investment objectives and/or that their investments were profitable.

20. On December 30, 2005, the Hedged Equity Fund had incurred more than \$1.5 million in realized and unrealized trading losses in December. Instead of disclosing these losses, Sury, on December 30, 2005, sent an email to Investors A reiterating that their investment strategy was a "barbell" approach consisting of capital preservation in the bond market and capital growth through hedged equities.

21. By January 11, 2006, Investors A had earned no profits from the Hedged Equity Fund, which remained in a deficit position. Despite the fund's poor performance, Sury sent Investors A another email on January 11, 2006 stating "I am planning to begin hedging your equities exposure . . . Best to take some of our (early) profits off the table."

22. In mid-January 2006, S4 Capital's Chief Compliance Officer met with S4 Capital's President and told him that Sury should immediately stop trading unhedged, Google options in the Hedged Equity Fund because Investors A would never tolerate such losses. S4 Capital's President also confronted Sury about his risky trading. Nevertheless, Sury, through S4 Capital, continued to take increasingly large, unhedged positions in Google options in hopes that Google would report positive fourth quarter earnings.

23. By January 18, 2006, the Hedged Equity Fund had lost nearly \$4.8 million. However, on January 18, 2006, Sury sent Investors A another email which stated, among other things, that their investment strategy "continues to be a prudent course."

24. On January 20, 2006, Google's stock experienced a sharp price decline as a result of news that the U.S. Justice Department had sued Google to compel the production of documents and that Yahoo, one of Google's direct competitors, had announced that it had missed analysts' expectations for the fourth quarter of 2005. After receiving this negative news, rather than disclosing the resulting losses, Sury, on January 20, 2006, instead sent Investors A an email stating "Today has seen some extraordinary activity. . . I think there is some merit to begin considering an allocation to equities . . . Indeed, putting on collared hedge positions would be a very prudent move at present, especially if we begin to see better earnings reports in the coming weeks. . . I'm hopeful that you will find the current strategy more rewarding in the long term than the more defensive strategy we used to protect your portfolio in the past 18 months." By the close of trading on Friday, January 20, 2006, Sury's trading caused the Hedged Equity Fund to realize losses of approximately \$3,137,640 when a total of 4,418 Google call contracts expired worthless.

25. On January 22, 2005, S4 Capital's President confronted Sury and told him that the trading losses were unacceptable, and demanded to know why Sury placed the majority of the Hedged Equity Fund's assets in Google options. Sury admitted to S4 Capital's President that he was hoping for better than expected fourth quarter earnings for Google and he was trying to mirror his trading in unhedged, Google options in the Market Neutral Fund and Hedged Equity Fund on October 20, 2005 which resulted in a 241% gain for the Funds.

26. On January 23, 2006, the Hedged Equity Fund lost an additional \$1,989,095 when Sury sold a total of 3,300 February Google calls purchased between January 18, 2006 and January 20, 2006. The risky trading and these losses were not disclosed to Investors A and B.

27. As a result of Sury's unhedged, high-risk trading strategy, S4 Capital and the Hedged Equity Fund incurred a \$4,202,555 margin call on January 25, 2006. By this time, the Hedged Equity Fund had lost approximately \$7.2 million due to the significant losses it had suffered and did not have sufficient capital to meet this margin call. As a result, Sury and S4 Capital's President, through S4 Capital, caused the Market Neutral Fund to loan \$4,205,000 to the Hedged Equity Fund in order to meet the margin call. Sury and S4 Capital's President caused the Hedged Equity Fund to execute a promissory note for this loan. The note was guaranteed by the assets of the Hedged Equity Fund and S4 Capital. However, at that time, the Hedged Equity Fund and S4 Capital had insufficient assets to make this guarantee, and the Hedged Equity Fund immediately defaulted on the promissory note, which was due the next day.

28. As of January 31, 2006, the Hedged Equity Fund held positions with an aggregate market value of \$9,729,115. This \$9,729,115 included the \$4,205,000 loaned from the Market Neutral Fund. After the close of trading that same day, Google announced that it had missed analysts' expectations and Google's stock price declined sharply thereafter. At the close of trading on January 31, 2006, the Hedged Equity Fund owned \$7,855,700 worth of net long Google call options representing nearly 81% of the portfolio's total value. Sury and S4 Capital used over \$2 million of the Market Neutral Fund's loan to establish these positions.

29. On February 1, 2006, as the value of Google rapidly declined, Sury began liquidating the Google options held in the Hedged Equity Fund. By February 3, 2006, all of the remaining positions in the Hedged Equity Fund were liquidated. Between February 3, 2006 and February 7, 2006, Sury, through S4 Capital, used all of the available cash from the sale of the Google options positions to repay approximately \$3,913,000 to the Market Neutral Fund from the Hedged Equity Fund, and Sury repaid the remainder of the loan from his personal assets.

30. Sury's undisclosed high-risk trading caused the Hedged Equity Fund to lose all of its assets, totaling approximately \$12 million, in about two months time. Approximately \$11.6 million, or nearly 95%, of these losses were the result of Sury's trades in Google stock and options.

Violations

31. As a result of the conduct described above, S4 Capital and Sury willfully violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder,

which prohibit fraudulent conduct in the offer and sale of securities and in connection with the purchase or sale of securities.

32. As a result of the conduct described above, S4 Capital willfully violated Sections 206(1) and 206(2) of the Advisers Act, which prohibits any investment adviser from, directly or indirectly, employing any device, scheme or artifice to defraud any client or prospective client and engaging in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client.

33. As a result of the conduct described above, Sury willfully aided and abetted and caused S4 Capital's violations of Sections 206(1) and 206(2) of the Advisers Act.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against S4 Capital pursuant to Section 203(e) of the Advisers Act including, but not limited to, civil penalties pursuant to Section 203(i) of the Advisers Act and Section 9(d) of the Investment Company Act;

C. What, if any, remedial action is appropriate in the public interest against Sury pursuant to Section 15(b)(6) of the Exchange Act and Section 203(f) of the Advisers Act including, but not limited to, civil penalties pursuant to Section 21B of the Exchange Act, Section 203(i) of the Advisers Act, and Section 9(d) of the Investment Company Act; and

D. Whether, pursuant to Section 8A of the Securities Act, Section 21C of the Exchange Act, and Section 203(k) of the Advisers Act, Respondents should be ordered to cease and desist from committing or causing violations of and any future violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondents shall file Answers to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondents fail to file the directed answers, or fail to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against them upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary