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13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION

16 SECURITIES AND EXCHANGE COMMISSION,  
17 Plaintiff,  
18 v.  
19 LION CAPITAL MANAGEMENT, LLC AND  
20 HAUSMANN-ALAIN BANET,  
21 Defendants.

Case No. \_\_\_\_\_

**COMPLAINT**

22 Plaintiff Securities and Exchange Commission (the "Commission") alleges:

23 **SUMMARY OF THE ACTION**

24 1. Lion Capital Management, LLC ("Lion Capital"), a San Francisco County investment  
25 adviser, and Lion Capital's principal, Hausmann-Alain Banet ("Banet") (collectively, the  
26 "Defendants"), defrauded investors of Lion Absolute Value Fund, an investment fund Lion Capital  
27 and Banet controlled, by misusing fund assets and providing investors with fabricated statements of  
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1 the fund's performance. The account statements materially misstated the financial condition and  
2 performance of the fund, as well as the amount of assets it had.

3 2. By engaging in the acts alleged in this Complaint, the Defendants violated the  
4 antifraud provisions of the federal securities laws and a Commission rule prohibiting fraud by  
5 investment advisers on investors in a hedge fund. The Commission seeks an order enjoining the  
6 Defendants from future violations of the securities laws and requiring them to disgorge ill-gotten  
7 gains with prejudgment interest and pay civil monetary penalties.

8 **JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT**

9 3. The Commission brings this action under Sections 20(b) and 20(d) of the Securities  
10 Act of 1933 ("Securities Act") [15 U.S.C. §§ 77t(b) and 77t(d)], Section 21(d) of the Securities  
11 Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d)], and Section 209(d) of the Investment  
12 Advisers Act of 1940 ("Advisers Act") [15 U.S.C. § 80b-9(d)].

13 4. This Court has jurisdiction over this action under Sections 20(b) and 22(a) of the  
14 Securities Act [15 U.S.C. §§ 77t(b) and 77v(a)], Sections 21(d), 21(e), and 27 of the Exchange Act  
15 [15 U.S.C. §§ 78u(d), 78u(e), and 78aa], and Sections 209 and 214 of the Advisers Act [15 U.S.C.  
16 §§ 80b-9 and 80b-14].

17 5. Venue in this District is proper under Section 22(a) of the Securities Act [15 U.S.C.  
18 § 77v], Section 27 of the Exchange Act [15 U.S.C. § 78aa], and Section 214 of the Advisers Act [15  
19 U.S.C. § 80b-14] because Banet resides in the Northern District of California.

20 6. Assignment to the San Francisco Division is appropriate pursuant to Civil Local Rules  
21 3-2(c) and 3-2(d) because acts and omissions giving rise to the Commission's claims occurred,  
22 among other places, in San Francisco County.

23 **DEFENDANTS**

24 7. **Lion Capital Management, LLC** is an investment adviser located in San Francisco,  
25 California and is incorporated in the State of Delaware as a Limited Liability Company. Lion Capital  
26 is the General Partner & Managing Member of Lion Absolute Value Fund.

1 8. **Hausmann-Alain Banet**, age 48, resides in San Francisco, California and has been  
2 Principal of Lion Capital since 2003. Known aliases include Ousmann Alain-Gbane and Ousmanne  
3 Gbane.

4 **OTHER RELEVANT ENTITIES**

5 9. **Lion Absolute Value Fund** (the “Fund”) is a hedge fund whose General Partner &  
6 Managing Member is Lion Capital. Since at least November 2008, the Fund has operated as a fund  
7 that purported to invest in securities.

8 **FACTUAL ALLEGATIONS**

9 **A. Background**

10 10. Lion Capital is the General Partner & Managing Member of the Lion Absolute Value  
11 Fund, a hedge fund that has operated as a fund that purported to invest in securities since at least  
12 November 2008.

13 11. The Fund has at least two investors who purchased securities in the Fund (“Clients A  
14 and B”). Client A was the trustee of her brother’s estate, and thus Client A made the decision to  
15 invest in the Fund both for herself and for the beneficiaries of her brother’s estate (“Client B”).

16 **B. The First Investment in the Fund by Clients A and B**

17 12. Client A first met Banet in the early 2000s, through her brother. Client A, who is a 69  
18 year-old retired schoolteacher, kept in touch with Banet after her brother’s death in 2006. Client A  
19 considered Banet a family friend.

20 13. Banet falsely told Client A that he had successfully opened two hedge funds using a  
21 long/short equity investing strategy. Banet also falsely told Client A that he had closed those earlier  
22 funds when they reached between 8 and 12 investors.

23 14. As an unsophisticated investor, Client A did not understand much of Banet’s  
24 terminology. Nonetheless, she believed him to be a successful money manager.

25 15. In November 2008, Banet approached Client A and told her he was opening another  
26 hedge fund, his third. Banet gave Client A an opportunity to invest in the Fund, which he claimed to  
27 have recently launched for new investors.

28

1           16.     Client A did not receive a private placement memorandum prior to investing in the  
2 Fund, nor did Banet determine whether or not Client A was an accredited investor.

3           17.     Based on her understanding that the Fund would invest in the stock market using a  
4 long/short equity strategy, Client A decided to invest nearly \$350,000 of her and Client B's assets in  
5 the Fund.

6           18.     Client A told Banet that she was giving Banet a significant portion of her retirement  
7 savings and would need the money she invested in the Fund within a few years. Banet pledged to  
8 have the money available within 30 to 60 days of Client A's redemption request.

9           19.     After Client A agreed to purchase shares of the Fund, Banet provided Client A with  
10 the paperwork to transfer the assets from the two investors' retirement accounts into the Fund. The  
11 wire instructions that Banet prepared directed that the two investors' accounts be transferred into the  
12 operating bank account of Lion Capital, rather than a segregated account for invested funds.

13          20.     On November 12, 2008, Clients A and B transferred \$344,344.61 to Lion Capital's  
14 bank account.

15           **C.     Banet Misappropriated The Investments of Clients A and B**

16          21.     After representing to Client A that the Fund would invest in the stock market, Banet  
17 instead misappropriated assets that had been promised to the Fund to finance his business operations  
18 and to pay personal expenses.

19          22.     Among other things, Banet used assets promised to the Fund to pay for Banet's  
20 residential mortgage on his condominium in San Francisco and to pay Lion Capital's office rent. He  
21 also used some of the money to pay for his ongoing legal expenses and to make staff payroll. None  
22 of the November 12<sup>th</sup> investments of Clients A and B was invested in the stock market, as Banet had  
23 promised.

24           **D.     Banet Sent False Account Statements to Client A**

25          23.     After her initial investment, Client A began receiving quarterly account statements  
26 from Banet for the accounts of Clients A and B. The account statements falsely showed steady gains  
27 due to trading income. Banet also signed each statement stating that "To the best of my knowledge  
28 and belief, unaudited statement is accurate and complete."

1           24.     The statements included the name and address of SS&C Technologies, a fund  
2 administrator Banet had used in the past, at the top. Banet told Client A that SS&C prepared the  
3 statements.

4           25.     However, SS&C has not provided any services to Lion Capital or any affiliated  
5 entities or funds since 2006. At the time of the statements, SS&C did not maintain an office at the  
6 location indicated on the fabricated statements.

7           **E.     The Second Investment in the Fund by Clients A and B**

8           26.     By May 2009, Banet had misappropriated virtually all of the initial \$350,000  
9 investment that Clients A and B had made in the Fund. Needing more money, Banet approached  
10 Client A again.

11          27.     Banet told Client A that he had another investment opportunity for her. Banet was  
12 vague about the opportunity, but Client A trusted him as a close family friend. Client A also  
13 believed, from the account statements of her investments in the Fund, that Banet had produced  
14 consistent investment gains on her initial investment, so she agreed to invest in the Fund again.

15          28.     Clients A and B invested in the Fund a second time. Client A authorized the transfer  
16 of an additional \$210,000 from the retirement accounts of Clients A and B to Lion Capital's  
17 operating bank account. Banet spent these amounts, which were meant for investing in the Fund, on  
18 his business and personal expenses.

19           **F.     Client A's Unsuccessful Redemption Requests**

20          29.     In April 2011, Client A began attempting to redeem both investors' interests in the  
21 Fund.

22          30.     To date, Client A's and Client B's requests for full redemption have not been honored.

23                           **FIRST CLAIM FOR RELIEF**  
24                           **Violations of Section 17(a) of the Securities Act**

25          31.     The Commission realleges and incorporates by reference paragraphs 1 through 30.

26          32.     Defendants have, by engaging in the conduct set forth above, directly or indirectly, in  
27 the offer or sale of securities, by the use of means or instruments of transportation or communication  
28 in interstate commerce, or of the mails: (a) with scienter, employed devices, schemes, or artifices to

1 defraud; (b) obtained money or property by means of untrue statements of material fact or by  
2 omitting to state material facts necessary in order to make statements made, in the light of the  
3 circumstances under which they were made, not misleading; and (c) engaged in transactions,  
4 practices, or courses of business which operated or would operate as a fraud or deceit upon the  
5 purchasers of such securities.

6 33. By reason of the foregoing, Defendants have directly or indirectly violated  
7 Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], and unless restrained and enjoined will  
8 continue to violate this provision.

9 **SECOND CLAIM FOR RELIEF**

10 **Violations of Section 10(b) of the Exchange Act and Rule 10b-5**

11 34. The Commission realleges and incorporates by reference paragraphs 1 through 30.

12 35. By engaging in the conduct described above, Defendants have, directly or indirectly,  
13 in connection with the purchase or sale of securities, by the use of means or instrumentalities of  
14 interstate commerce, or of the mails, with scienter:

15 (a) employed devices, schemes, or artifices to defraud;

16 (b) made untrue statements of material fact or omitted to state material facts necessary in  
17 order to make the statements made, in the light of the circumstances under which they  
18 were made, not misleading; and

19 (c) engaged in acts, practices, or courses of business which operated or would operate as a  
20 fraud or deceit upon other persons, including purchasers and sellers of securities.

21 36. By reason of the foregoing, Defendants have directly or indirectly violated  
22 Section 10(b) of the Exchange Act and Rule 10b-5 thereunder [15 U.S.C. § 78j(b) and 17 C.F.R.  
23 §§ 240.10b-5] and unless restrained and enjoined will continue to violate these provisions.

24 **THIRD CLAIM FOR RELIEF**

25 **Violations of Advisers Act Sections 206(1) and 206(2)**

26 37. The Commission realleges and incorporates by reference Paragraphs 1 through 30.

27 38. By engaging in the acts and conduct alleged above, Defendants, directly or indirectly,  
28 through use of the means or instruments of transportation or communication in interstate commerce

1 or of the mails, and while engaged in the business of advising others for compensation as to the  
2 advisability of investing in, purchasing, or selling securities: (1) with scienter employed devices,  
3 schemes, and artifices to defraud clients or prospective clients; and (2) engaged in acts, practices, or  
4 courses of business which operated or would operate as a fraud or deceit upon clients or prospective  
5 clients.

6 39. By reason of the foregoing, Defendants have violated and, unless restrained and  
7 enjoined, will continue to violate Sections 206(1) and (2) of the Advisers Act [15 U.S.C. § 80b-6(1)].

8 **FOURTH CLAIM FOR RELIEF**  
9 **Violations of Advisers Act Section 206(4) and Rule 206(4)-8**

10 40. The Commission realleges and incorporates by reference paragraphs 1 through 30.

11 41. By engaging in the acts and conduct alleged above, Defendants directly or indirectly,  
12 through use of the means or instruments of transportation or communication in interstate commerce  
13 or of the mails, and while engaged in the business of advising others for compensation as to the  
14 advisability of investing in, purchasing, or selling securities: (a) made untrue statements of a material  
15 fact or omitted to state a material fact necessary to make the statements made, in the light of the  
16 circumstances under which they were made, not misleading, to investors or prospective investors in a  
17 pooled investment vehicle; and (b) engaged in acts, practices, or courses of business that were  
18 fraudulent, deceptive, or manipulative with respect to investors or prospective investors in a pooled  
19 investment vehicle.

20 42. By reason of the foregoing, Defendants have violated and, unless restrained and  
21 enjoined, will continue to violate Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder  
22 [15 U.S.C. § 80b-6(4) and 17 C.F.R. § 275.206(4)-8].

23 **PRAYER FOR RELIEF**

24 WHEREFORE, the Commission respectfully requests that this Court:

25 I.

26 Permanently enjoin Lion Capital and Banet from directly or indirectly violating Section 17(a)  
27 of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act and Rule 10b-5  
28 thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5], and Sections 206(1), 206(2), and 206(4)

1 of the Advisers Act and Rule 206(4)-8 thereunder [15 U.S.C. §§ 80b-6(1), 80b-6(2), and 80b-6(4)  
2 and 17 C.F.R. § 275.206(4)-8];

3 II.

4 Order Lion Capital and Banet to disgorge any wrongfully obtained benefits, including  
5 prejudgment interest;

6 III.

7 Order Lion Capital and Banet to pay civil penalties pursuant to Section 20(d) of the Securities  
8 Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], and Section  
9 209 of the Advisers Act [15 U.S.C. § 80b-9];

10 IV.

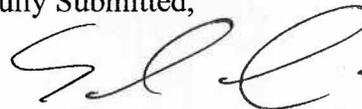
11 Retain jurisdiction of this action in accordance with the principles of equity and the Federal  
12 Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that  
13 may be entered, or to entertain any suitable application or motion for additional relief within the  
14 jurisdiction of this Court; and

15 V.

16 Grant such other and further relief as this Court may determine to be just and necessary.

17  
18 DATED: October 3, 2012

Respectfully Submitted,

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Sahil W. Desai

21 Attorney for Plaintiff

22 SECURITIES AND EXCHANGE COMMISSION  
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