

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 58634 / September 24, 2008

INVESTMENT ADVISERS ACT OF 1940
Release No. 2788 / September 24, 2008

ADMINISTRATIVE PROCEEDING
File No. 3-13235

In the Matter of

**SIRIOS CAPITAL
MANAGEMENT, L.P.,**

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934
AND SECTION 203(e) OF THE
INVESTMENT ADVISERS ACT OF 1940,
MAKING FINDINGS AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

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 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Section 203(e) of the Investment Advisers Act of 1940 (“Advisers Act”) against Sirius Capital Management, L.P. (“Respondent” or “Sirios”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities

Exchange Act of 1934 and Section 203(e) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds that:

Summary

These proceedings arise out of violations of Rule 105 of Regulation M of the Exchange Act by Sirios, an investment manager of hedge funds and long-only funds. On two occasions on or about August 7, 2003 and on or about March 13, 2006 (“the relevant period”), Sirios violated Rule 105 in connection with short sales made in advance of public offerings by Centene Corporation (“Centene”) and Las Vegas Sands Corporation (“Las Vegas Sands”). Sirios sold securities short within five business days before the pricing of each offering, and covered the short sales, in whole or in part, with shares purchased in the offerings, resulting in profits of \$198,069.

Respondent

1. Sirios is a Boston, Massachusetts-based investment manager to 11 hedge funds and long-only funds and serves as sub-adviser to one unaffiliated account, and provides investment management services on a discretionary basis to U.S. and non-U.S. private investment funds. In January 2006, Sirios registered with the Commission as an investment adviser and withdrew its registration in September 2006.

Other Relevant Entities

2. Centene is headquartered in St. Louis, Missouri. Centene’s stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and listed on the New York Stock Exchange.

3. Las Vegas Sands is headquartered in Las Vegas, Nevada. Las Vegas Sands’ stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and listed on the New York Stock Exchange.

Background

4. At all relevant times, Rule 105 of Regulation M, “Short Selling in Connection with a Public Offering,” (“Rule 105”) provided, in pertinent part:

In connection with an offering of securities for cash pursuant to a registration statement ... filed under the Securities Act, it shall be unlawful for any person to cover a short sale with offered securities purchased from an underwriter or broker

or dealer participating in the offering, if such short sale occurred during the ... period beginning five business days before the pricing of the offered securities and ending with such pricing. . .

17 C.F.R. § 242.105(a)(1). This five business day or shorter period is referred to herein as the “restricted period.” Rule 105 is prophylactic and prohibits the conduct irrespective of the short seller’s intent in effecting the short sale.

5. During the relevant period, Sirios violated Rule 105 in connection with short sales made in advance of public offerings by two companies, Centene and Las Vegas Sands, resulting in profits of \$198,069.

6. On July 22, 2003, Centene announced that it filed a registration statement with the Commission for a secondary public offering of 3,000,000 shares of its common stock through underwriters on a firm commitment basis. On August 7, 2003, Centene priced that secondary offering of 3,000,000 shares of common stock at \$25.00 per share. Thus, the restricted period under Rule 105 ran from August 1, 2003 through August 7, 2003.

7. Prior to the Centene offering and during the restricted period, on August 1, 2003, Sirios sold short 23,000 shares of Centene at a price of \$28.56 per share. Sirios received 230,000 shares of Centene in the secondary offering on August 7, 2003, at a price of \$25.00 per share. Sirios used shares acquired in the secondary offering to cover a portion of its short position of 23,000 shares. Covering a portion of this restricted period short sale with offering shares resulted in a profit of \$36,134 to the funds advised by Sirios. Prior to the restricted period, Sirios also held a short position in Centene.

8. On February 14, 2006, Las Vegas Sands announced that it filed a registration statement for a secondary public offering of 55,000,000 shares of its stock through an underwriter on a firm commitment basis. On March 13, 2006, Las Vegas Sands priced that secondary offering of 55,000,000 shares at \$50.25 per share. Thus, the restricted period under Rule 105 ran from March 7, 2006 through March 13, 2006.

9. Prior to the Las Vegas Sands offering and during the restricted period, on March 7, 2006, Sirios sold short 23,300 shares of Las Vegas Sands at a price of \$57.20 per share. Subsequently, on March 13, 2006, Sirios purchased 200,000 shares of Las Vegas Sands in the secondary offering at \$50.25 per share. Sirios used shares acquired in the secondary offering to cover its short position of 23,300 shares. Covering this restricted period short sale with offering shares resulted in a profit of \$161,935 for the funds advised by Sirios. Prior to the restricted period, Sirios also held a short position in Las Vegas Sands.

10. As a result of the conduct described above, Sirios willfully¹ violated Rule 105 of Regulation M, which makes it “unlawful for any person to cover a short sale with offered

¹ A willful violation of the securities laws means merely “that the person charged with the duty knows what he is doing.” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting

securities purchased from an underwriter or broker or dealer participant in the offering, if such short sale occurred during the period beginning five business days before the pricing of the offered securities and ending with the pricing.”

Sirios’ Remedial Efforts

11. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Sirios and cooperation afforded the Commission staff.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Sirios’ Offer.

Accordingly, pursuant to Section 21C of the Exchange Act and Section 203(e) of the Advisers Act it is hereby ORDERED that:

A. Respondent Sirios cease and desist from committing or causing any violations and any future violations of Rule 105 of Regulation M.

B. Respondent Sirios is censured.

C. IT IS FURTHER ORDERED that Respondent shall, within ten (10) days of the entry of this Order, pay disgorgement of \$198,069, plus prejudgment interest in the amount of \$38,989.69 and pay a civil penalty in the amount of \$50,000 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment shall be: (A) made by United States postal money order, certified check, bank cashier’s check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Alexandria, VA 22312, Stop 0-3; and (D) submitted under cover letter that identifies Sirios as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to John T. Dugan, Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, Boston Regional Office, 33 Arch St., Floor 23, Boston, MA 02110.

By the Commission.

Florence E. Harmon
Acting Secretary

Hughes v. SEC, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor “also be aware that he is violating one of the Rules or Acts.” *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).