

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 4820 / December 5, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18296

In the Matter of

**PARITOSH GUPTA,
ADI CAPITAL MANAGEMENT LLC,
NEHAL CHOPRA, and
RATAN CAPITAL MANAGEMENT, LP,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS, PURSUANT
TO SECTIONS 203(e), 203(f), AND 203(k)
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 Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Paritosh Gupta (“Gupta”), Adi Capital Management LLC (“Adi”), Nehal Chopra (“Chopra”), and Ratan Capital Management LP (“Ratan”).

II.

In anticipation of the institution of these proceedings, Gupta, Adi, Chopra, and Ratan (collectively “Respondents”) have submitted Offers of Settlement (the “Offers”) 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 them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 203(e), 203(f), and 203(k) 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 Respondents' Offers, the Commission finds that:

SUMMARY

1. This matter arises from Paritosh Gupta's improper sharing of confidential information and advice – obtained from his position as a senior research analyst with a hedge fund adviser ("Adviser A") – with Nehal Chopra, whom Gupta first met in 2006 and subsequently married. Chopra then used that information and advice in operating Ratan Capital Management LP ("Ratan"), a hedge fund adviser that pursued a similar strategy and competed with Gupta's employer, Adviser A. Unbeknownst to Adviser A and its investors, Gupta also performed certain roles in the operations of Ratan, including providing investment recommendations and advice to Chopra and Ratan. By sharing Adviser A's confidential information developed and paid for by its clients with Chopra, Gupta caused violations of Section 206(2) of the Advisers Act.

2. Ratan and Chopra failed to disclose to Ratan's investors and prospective investors the significant role that Gupta played in Ratan's investment process and operations. Their failure to disclose such information rendered statements made in Ratan investor letters, due diligence questionnaires, Form ADVs, and other communications misleading. By virtue of this conduct, Ratan and Chopra violated Sections 206(4) and 207 of the Advisers Act and Rule 206(4)-8 thereunder. Gupta was a cause of Ratan's and Chopra's violations of Section 206(4) and Rule 206(4)-8.

3. In January 2014, after leaving Adviser A, Gupta launched Adi Capital Management LLC ("Adi"), a hedge fund investment adviser that pursued a similar strategy to and competed with Ratan and Adviser A. From February 2014 until September 2014, Adi's Form ADV Part 2A brochure inaccurately stated that Gupta and Chopra did not share confidential investment-related information regarding their funds' current or potential investments, in violation of Section 207 of the Advisers Act.

RESPONDENTS

4. **Nehal Chopra**, age 37, and a resident of New York, New York, is the founder, owner and portfolio manager of Ratan. She is married to Gupta.

5. **Paritosh Gupta**, age 37, and a resident of New York, New York, was a research analyst at Adviser A from March 2005 until March 2013, and continued to serve as a research analyst for Adviser A through June 2013. Gupta is currently the founder and managing member of Adi. He is married to Chopra.

6. **Ratan Capital Management, LP**, a Delaware limited partnership with its principal place of business in New York, New York, is an investment adviser to four private funds. It commenced operations in approximately March 2009, became an exempt reporting adviser with the

Commission in 2012, and registered with the Commission as an investment adviser in July 2013 (SEC 801-78311). As of March 2017, Ratan reported regulatory assets under management of approximately \$375 million.

7. **Adi Capital Management LLC**, a Delaware limited liability company with its principal place of business in New York, New York, is an investment adviser to five private funds. It commenced operations in January 2014 and registered with the Commission as an investment adviser in March 2014 (SEC 801-79287). As of March 2017, Adi reported regulatory assets under management of approximately \$368 million.

OTHER RELEVANT ENTITY

8. **Adviser A**, a Delaware corporation with its principal place of business in New York, New York, is a registered investment adviser to several private funds. As of March 2017, Adviser A reported regulatory assets under management of approximately \$4.5 billion.

FACTS

A. Background

9. Adviser A advises and manages private funds that employ event-driven long/short strategies focused on management change. Gupta became an analyst at Adviser A in approximately March 2005, and rose to become a senior and highly compensated research analyst.

10. In 2006, a principal at Adviser A introduced Gupta to Chopra. Gupta and Chopra began dating shortly thereafter and married in November 2011.

11. In 2008, Chopra began to set up Ratan and its funds, which were launched in May 2009 and employed event-driven long/short strategies.

B. Gupta Advised Chopra on Ratan's Operations and Investment Strategy

12. Gupta provided advice and support to Chopra as she launched Ratan, including advice on investing and how to build her network in the investment community. As early as August 2008, Gupta helped Chopra draft a presentation to obtain seed capital that delineated the proposed Ratan fund's investment philosophy, investment strategy, and investment process. In March 2009, Gupta emailed Chopra an offering memorandum of one of Adviser A's funds that described its investment strategy. The private placement memorandum for Ratan's first fund, dated April 2009, described a strategy virtually identical to the strategy of Adviser A's funds.

13. After Ratan launched, Gupta frequently helped draft and edit certain of Ratan's communications to investors or prospective investors, including quarterly investor letters, individualized emails, marketing presentations, Ratan "one pager" informational sheets, and due diligence questionnaires. These communications solicited investments in Ratan and described, among other things, Ratan's investment strategy, key personnel, portfolio composition,

performance statistics, and investment ideas. Gupta also drafted and edited certain of Ratan's communications seeking allocations of initial public offerings on behalf of Ratan, including an offering for which Adviser A was also seeking an allocation (which Gupta knew).

14. Gupta also played a significant role helping Chopra staff Ratan. Unbeknownst to Adviser A, he drafted or edited job descriptions, reviewed resumes, identified candidates to interview, interviewed candidates, and conducted reference checks. He conducted interviews of some candidates for Ratan in Adviser A's offices. In some instances, Gupta also provided Chopra guidance and feedback on certain Ratan employees' compensation and other personnel matters.

C. Gupta Shared Adviser A's Confidential Information with Chopra

15. While employed by Adviser A, Gupta shared with Chopra confidential Adviser A information, such as investment theses, models, notes, recommendations, and analyses. This confidential information was developed by Gupta and his Adviser A colleagues for Adviser A fund clients. Gupta at times emailed Chopra Adviser A's internal trading recommendations, strategies, and analyses developed for Adviser A's clients.

16. Gupta also at times advised Chopra to have Ratan trade in the same securities in which Adviser A either had a position or was actively considering a position, unbeknownst to Adviser A. This advice, delivered at times in emails or Bloomberg chat messages from his Adviser A account, related to both the timing and size of trades. Chopra at times traded in accordance with Gupta's advice. For example, in March 2010, Gupta messaged Chopra asking her how big a position Ratan had in a particular security. When Chopra responded that it constituted 2.3% of Ratan's portfolio, Gupta wrote that it should be bigger and she should call him. That day, Ratan purchased additional shares of the security. Adviser A had a position in the same security at that time, and also purchased more shares that day. Similarly, in November 2011, Gupta emailed Chopra, telling her that she should start selling a particular security. That day, Ratan began selling its position in the security. Adviser A traded in the same securities and derivatives of those securities on the same day, reducing its long position in the security. In addition, on at least one occasion, Gupta monitored Ratan's entire portfolio while Chopra was out of the country.

17. Gupta also provided Chopra with direct access to certain of Adviser A's web-based third-party research providers, which provided her access to market intelligence, data and analytics, without Adviser A's knowledge. Likewise, Gupta forwarded to Chopra emails and electronic messages that contained fund-paid third-party research, including investment analyses, models, and news on issuers, such as those issuers' recent stock sales.

18. From 2009 to 2013, Adviser A had certain general written policies concerning confidential information, including in its code of ethics, compliance manual and employee manual. Adviser A provided copies of these policies to its employees, including Gupta. These policies provided, among other things, that Adviser A's employees were prohibited from revealing the firm's confidential information to any person outside of Adviser A who did not need to know such information to carry out duties or services to Adviser A and were not obligated to keep it confidential. The policies explicitly defined confidential information to include certain of the types

of information that Gupta provided to Chopra, such as Adviser A's investment intentions and securities being considered for purchase or sale.

19. Gupta's sharing of Adviser A's investment-related information with Chopra violated Adviser A's policies regarding sharing of the firm's confidential information.

20. Upon learning that Gupta had disclosed confidential information to Chopra, Adviser A monitored Gupta's email for additional inappropriate communications with Chopra and, in early 2011, Adviser A's CCO reminded Gupta not to discuss Adviser A confidential information with Chopra.

21. In mid-April 2011, Adviser A learned that Gupta helped prepare parts of Ratan's most recent quarterly investor letter, which used language similar to the internal draft of an Adviser A investor letter to describe core positions held by both Ratan and Adviser A. Gupta acknowledged editing and proofreading Ratan's letter and, after a meeting with one of Adviser A's principals, signed a document stating that Gupta "may have or may be viewed as having disclosed confidential information" to Chopra, and that he "was asked on prior occasions to make sure to not communicate with [Chopra] in a fashion that would appear to be in violation of [Adviser A]'s confidentiality policy." The document again directed Gupta not to disclose Adviser A's confidential information.

22. After April 2011, Gupta continued emailing the same type of Adviser A confidential information from his Adviser A email account to his personal email account and, from there, to Chopra.

23. Adviser A's policies required employees to conduct business and send business communications only on systems approved by Adviser A, and prohibited employees from using personal e-mail accounts for any business purpose. Gupta's use of his personal email account to forward Adviser A's confidential investment-related information to Chopra was a violation of this policy.

D. Ratan's Portfolio Overlapped Significantly With Adviser A's Portfolio

24. In November 2011, Gupta and Chopra married. Adviser A had in place a personal trading policy that, among other things, prohibited most personal trading, including in individual securities, by its employees and their spouses. In January 2012, Gupta requested, and Adviser A granted, an exemption from that prohibition for trading by Chopra conducted as portfolio manager of Ratan, so long as Chopra agreed to allow a law firm to review Ratan's portfolio and Adviser A's portfolio on a monthly basis, including a comparison of holdings and the trading in those holdings. As an additional condition of that exemption, Gupta represented that, among other things, he had no control over Ratan, no financial interest in Ratan, and no responsibility for the investment decisions made by Ratan. Adviser A also required Gupta to sign, in January 2012, an additional agreement not to disclose Adviser A's confidential information to Chopra.

25. In January 2012, the law firm reported to Adviser A and Ratan a list of positions shared by Adviser A and Ratan, which reflected a substantial overlap of the names in Adviser A's and Ratan's portfolios. The size of this overlap remained relatively consistent through April 2013, and the law firm continued to report this finding monthly to Adviser A and Ratan through May 2013.

26. In February 2013, Ratan publicly filed its first Form 13F with the Commission, which also showed that certain of its positions overlapped substantially with Adviser A's positions.

27. In March 2013, at Adviser A's initiation, Adviser A and Gupta separated. The separation agreement, however, provided that Gupta remain employed by Adviser A until December 31, 2013 at the latest, during which time Gupta was responsible for continuing to track fund portfolio positions and research new investment ideas, but would no longer have access to Adviser A's offices, email account, or internal systems. From March 2013 through June 2013, Gupta remained employed by Adviser A and at times discussed Adviser A investments with Adviser A employees.

28. During this same time period, from March 2013 to June 2013, Gupta also provided services to Ratan as a consultant with the duties of an investment analyst, which included making investment recommendations. Gupta provided analysis and investment recommendations to Ratan and Adviser A on the same securities during this time period.

29. Gupta's simultaneous work for both Adviser A and Ratan was never disclosed to Adviser A, Adviser A's clients or prospective clients or Ratan's investors or prospective investors in Ratan's pooled investment vehicles.

E. Ratan's and Chopra's Statements Regarding Ratan's Investment Strategy and Process

30. From approximately April 2009 through December 2013, Ratan and Chopra described Ratan's investment strategy, research process, key personnel and operations in communications to investors and prospective investors in Ratan's funds without disclosing Gupta's role. These communications included due diligence questionnaires, marketing materials, offering documents, and quarterly investor letters. For example, Ratan's due diligence questionnaires and offering documents described Ratan's investment strategy as: "Ratan will use a bottom-up stock picking approach based on extensive industry and company specific research to identify mispriced securities and catalysts that will unlock and highlight the true value of the security." These documents further identified Chopra and her analysts – but omitted Gupta – as the "team" implementing this strategy, asserted that this team comprised Ratan's in-house research capacity, and claimed not to use external research. These disclosures failed to disclose the role that Gupta – a research analyst at a competing hedge fund adviser – played in Ratan's investment strategy. Disclosures concerning Ratan's key personnel, team structure, or individuals responsible for directing Ratan's investments likewise failed to reference Gupta and his role in Ratan's investment process and operations.

31. Ratan and Chopra began drafting Forms ADV in 2013 and began filing them with the Commission in June 2013. Ratan's Form ADV filings starting from at least June 2013 through 2014 failed to disclose Ratan's relationship with Gupta and Gupta's role in Ratan's investment process and operations.

32. Gupta helped draft and edit certain of Ratan's communications to investors and prospective investors and knew, or should have known, that those communications were materially misleading as a result of the undisclosed role he played at Ratan.

F. Adi's Statements in its Form ADV

33. After Gupta founded Adi in January 2014, Adi's February 2014, Form ADV Part 2A firm brochure stated that Gupta's spouse – *i.e.*, Chopra – was a principal for another private fund adviser with a similar investment strategy, but that Gupta and his spouse did not discuss any information related to their funds' investments, potential investments, investment strategies or other confidential investment-related information. This statement was untrue because Gupta and Chopra did in fact discuss such information during the period between January 2014 and September 2014 when Adi amended its Form ADV.

VIOLATIONS

34. As a result of the conduct described above, Gupta caused Adviser A to violate Section 206(2) of the Advisers Act, which prohibits an investment adviser from engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client. A violation of Section 206(2) of the Advisers Act may rest on a finding of simple negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 195 (1963)). Proof of scienter is not required to establish a violation of Section 206(2) of the Advisers Act. *Id.*

35. As a result of the conduct described above, Gupta, Adi, Ratan, and Chopra willfully violated Section 207 of the Advisers Act, which makes it unlawful for any person willfully to make any untrue statement of a material fact in any registration application or report filed with the Commission or willfully to omit to state in any such application or report any material fact which is required to be stated therein.¹

36. As a result of the conduct described above, Ratan and Chopra willfully violated, and Gupta caused their violations of, Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, which make it unlawful for any investment adviser to a pooled investment vehicle to make any untrue statement of material fact or omit to state a material necessary to make the

¹ A willful violation of the securities laws mean 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 *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)).

statements made, in light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle, or otherwise engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle. A violation of Section 206(4) and the rules thereunder does not require scienter. *Steadman*, 967 F.2d at 647.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant to Sections 203(e), 203(f), and 203(k) of the Advisers Act, it is hereby ORDERED that:

- A. Respondent Gupta cease and desist from committing or causing any violations and any future violations of Sections 206(2), 206(4), and 207 of the Advisers Act and Rule 206(4)-8 thereunder.
- B. Respondent Adi cease and desist from committing or causing any violations and any future violations of Section 207 of the Advisers Act.
- C. Respondents Ratan and Chopra cease and desist from committing or causing any violations and any future violations of Sections 206(4) and 207 of the Advisers Act and Rule 206(4)-8 thereunder.
- D. Respondents Ratan, Chopra, Gupta, and Adi are censured.
- E. Respondent Gupta shall pay, within thirty (30) calendar days of the entry of this Order, a civil money penalty, in the amount of \$250,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.
- F. Respondent Chopra shall pay, within thirty (30) calendar days of the entry of this Order, a civil money penalty, in the amount of \$200,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.
- G. Respondent Ratan shall pay, within thirty (30) calendar days of the entry of this Order, a civil money penalty, in the amount of \$200,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

H. Respondents must make payment of the civil penalties set forth herein in one of the following ways:

- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying the entity as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Melissa A. Robertson, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5010.

Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against one or more Respondents by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by

Gupta and Chopra, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Gupta or Chopra under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Gupta and Chopra of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary