

NIERENBERG NICOLAS
Form 4
March 07, 2008

FORM 4

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

OMB APPROVAL

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STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
NIERENBERG NICOLAS

(Last) (First) (Middle)

ACTUATE CORPORATION, 2207
BRIDGEPOINTE PARKWAY,
SUITE 500

(Street)

SAN MATEO, CA 94404

(City) (State) (Zip)

2. Issuer Name and Ticker or Trading Symbol
ACTUATE CORP [ACTU]

3. Date of Earliest Transaction
(Month/Day/Year)
03/07/2008

4. If Amendment, Date Original Filed(Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

Director 10% Owner
 Officer (give title below) Other (specify below)
Chairman & Chief Architect

6. Individual or Joint/Group Filing(Check Applicable Line)
 Form filed by One Reporting Person
 Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

| 1. Title of Security (Instr. 3) | 2. Transaction Date (Month/Day/Year) | 2A. Deemed Execution Date, if any (Month/Day/Year) | 3. Transaction Code (Instr. 8) | 4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5) | 5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4) | 6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4) | 7. Nature of Indirect Beneficial Ownership (Instr. 4) |
|---------------------------------|--------------------------------------|--|--------------------------------|---|---|--|---|
| | | | | (A) or (D) | Price | | |
| Common Stock | 03/06/2008 | 03/06/2008 | M | 25,000 | \$ 1.49 | 25,000 | D |
| Common Stock | 03/06/2008 | 03/06/2008 | M | 95,000 | \$ 1.49 | 120,000 | D |
| Common Stock | 03/06/2008 | 03/06/2008 | S | 120,000 | \$ 5 (1) | 0 | D |

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

Persons who respond to the collection of information contained in this form are not required to respond unless the form

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displays a currently valid OMB control number.

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(e.g., puts, calls, warrants, options, convertible securities)

| 1. Title of Derivative Security (Instr. 3) | 2. Conversion or Exercise Price of Derivative Security | 3. Transaction Date (Month/Day/Year) | 3A. Deemed Execution Date, if any (Month/Day/Year) | 4. Transaction Code (Instr. 8) | 5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5) | 6. Date Exercisable and Expiration Date (Month/Day/Year) | 7. Title and Amount of Underlying Securities (Instr. 3 and 4) | Amount or Number of Shares |
|--|--|--------------------------------------|--|--------------------------------|---|--|---|----------------------------|
| Option (right to buy) | \$ 1.49 | 03/06/2008 | 03/06/2008 | M | 25,000 | 03/03/2004 03/03/2013 | Common Stock | 25,000 |
| Option (right to buy) | \$ 1.49 | 03/06/2008 | 03/06/2008 | M | 95,000 | 03/03/2004 03/03/2013 | Common Stock | 95,000 |

Reporting Owners

| Reporting Owner Name / Address | Relationships | | | |
|--|---------------|-----------|----------------------------|-------|
| | Director | 10% Owner | Officer | Other |
| NIERENBERG NICOLAS ACTUATE CORPORATION 2207 BRIDGEPOINTE PARKWAY, SUITE 500 SAN MATEO, CA 94404 | X | | Chairman & Chief Architect | |

Signatures

/s/ Nicolas
Nierenberg 03/07/2008

**Signature of Reporting Person Date

Explanation of Responses:

* If the form is filed by more than one reporting person, see Instruction 4(b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

- (1) Due to a trading error, the scheduled sale by Nicolas Nierenberg of 120,000 shares of Actuate Corporation was not executed on February 22, 2008, as should have occurred pursuant to the terms of a 10b5-1 trading plan between Mr. Nierenberg and UBS Financial Services Inc. Upon discovery of the error, UBS Financial Services purchased the stock reported in this Form 4 at \$5.00 for their own account; the price received for the shares was consistent with the 10b5-1 plan's limit order of \$5.00 or higher.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, see Instruction 6 for procedure. Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number.