

NATIONAL FUTURES ASSOCIATION

In the Matter of:

TIGER FINANCIAL GROUP
(NFA ID #288015),

BRIAN O. OZKAN
(NFA ID #243528),

ERIC M. GOLUB
(NFA ID #316740),

RAMON CHALIS
(NFA ID #310927),

AMEET ANDHARI
(NFA ID #369165),

DUSTIN S. SMITH
(NFA ID #314073),

MICHAEL A. PATTON
(NFA ID #363980),

JAMES A. SPEAR
(NFA ID #312680),

DARCUS O. YOUNG
(NFA ID #357789),

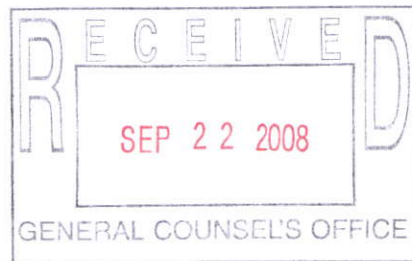
and

CHRISTOPHER BRUECK
(NFA ID #373426),

Respondents.

NFA Case No. 08-BCC-017

ORAL HEARING REQUESTED



RESPONDENTS SMITH, PATTON AND SPEAR
ANSWER TO BCC COMPLAINT

Respondents DUSTIN SMITH, MICHAEL PATTON, and JAMES SPEAR (collectively the "Answering Respondents"), through their attorneys Ulmer & Berne LLP, hereby answer the Complaint as follows:

1. At all times relevant to this Complaint, Tiger was an independent introducing broker ("IB") NFA Member located in Los Angeles, California.

ANSWER: The Answering Respondents admit the allegations of this paragraph.

2. At all times relevant to this Complaint, Ozkan was the chief executive officer, a principal, and an associated person ("AP") of Tiger and an NFA Associate.

ANSWER: The allegations in this paragraph are not directed against the Answering Respondents.

3. At all times relevant to this Complaint, Golub was a principal, and an AP of Tiger and an NFA Associate.

ANSWER: The allegations in this paragraph are not directed against the Answering Respondents.

4. At all times relevant to this Complaint, Chalis, Andhari, Smith, Patton, Spear, Young, and Brueck were APs of Tiger and NFA Associates.

ANSWER: The Answering Respondents admit that they were APs of Tiger and NFA Associates.

5. Tiger has been an IB Member of NFA since October 1998. Its main office is in Los Angeles. Tiger currently operates five branch offices, which are located in Atlanta; Lawrenceville, Georgia; Chicago; New York City; and Woodland Hills, California. The firm employs approximately 70 APs.

ANSWER: The allegations in this paragraph are not directed against the Answering Respondents.

6. Tiger's chief executive officer is Ozkan, who has been a listed principal and AP sponsored by Tiger since its inception. Tiger is wholly owned by Tiger Financial Holdings LLC, which in turn is owned by the Brian Ozkan Trust (the "Trust"). Ozkan is the Trust's only trustee. Ozkan is also a principal and former AP of Puma Financial LLC ("Puma"), which is a Chicago-based futures commission merchant. Puma is also owned entirely by the Trust.

ANSWER: The allegations in this paragraph are not directed against the Answering Respondents.

7. Golub has been an AP and principal of Tiger since early 2005. He and Ozkan have primary responsibility for supervising Tiger's main office in Los Angeles as well as certain company-wide functions.

ANSWER: The allegations in this paragraph are not directed against the Answering Respondents.

8. Tiger was guaranteed by Alaron Trading Corporation ("Alaron") from October 1998 through January 2004 and has been an independent IB since that time. Tiger is also a notice registered broker dealer and was registered as a commodity trading advisor from June 1998 until February 2004.

ANSWER: The allegations in this paragraph are not directed against the Answering Respondents.

9. Tiger's customers trade almost exclusively in exchange traded options in non-discretionary accounts. The firm had approximately 3,300 customers during 2005 and 2,900 during 2006. Eighty-four percent of its customers suffered net losses in 2005 and 91% of them experienced net losses in 2006. Collectively, those customers experienced net losses of \$39.7 million during that two-year period while the firm generated \$23.7 million in commissions.

ANSWER: The Answering Respondents admit that Tiger's customers trade almost exclusively in exchange traded options in non-discretionary accounts. For that reason, the Answering Respondents are not obligated to disclose the performance record of their customers to prospective or actual customers. Indeed, in the absence of regulations prescribing how such results should be calculated, it could be misleading to discuss such information with prospective and actual clients. Accordingly, it is the practice of the Answering Respondents not to discuss the performance of other customer's accounts. The Answering Respondents lack knowledge as to the other allegations in this paragraph sufficient to form a belief as to their truth, and so they are denied.

10. During NFA's most recent visits to Tiger's offices, auditors overheard some of the APs making claims about the likelihood of achieving substantial profits. Those claims bore no resemblance to the significant overall losses experienced by Tiger's customers. For example, NFA staff heard Tiger APs in the Los Angeles main office and in the New York

City and Chicago offices tell prospective customers that they were looking for \$7,000 to \$9,000 returns on a \$5,000 investment. Tiger APs in the Woodland Hills branch told prospects that they were looking for \$3,000 to \$4,000 profits on a \$5,000 investment. Despite these profit claims, NFA never heard a Tiger AP disclose the fact that the vast majority of the firm's customers lost money overall.

ANSWER: The Answering Respondents lack knowledge as to the other allegations in this paragraph sufficient to form a belief as to their truth, and so they are denied.

11. As a result of the problematic solicitations NFA staff overheard during their visits to Tiger's offices, NFA expanded its review of the firm's sales practices. NFA obtained a list of all Tiger customers who closed their accounts in 2007 and conducted interviews with a sample of those customers as well as with some individuals who had filed complaints or NFA Arbitration claims during 2007 and early 2008.

ANSWER: The Answering Respondents lack knowledge as to the other allegations in this paragraph sufficient to form a belief as to their truth, and so they are denied.

12. The Tiger customers whom NFA interviewed reported that Tiger's brokers routinely touted profits, made representations that the customers were likely to reap substantial profits trading through Tiger, downplayed the risk of loss, and failed to provide adequate risk disclosure. The customers also confirmed to NFA that they were never told that the vast majority of Tiger's customers lost money.

ANSWER: The Answering Respondents lack knowledge as to the other allegations in this paragraph sufficient to form a belief as to their truth, and so they are denied.

13. Tiger's practice of highlighting substantial profit opportunities in the face of a history of substantial customer losses without disclosing those losses to their customers or prospective customers has been specifically held to be misleading by NFA's Appeals Committee in In the Matter of Siegel Trading Company, Inc., NFA Case No. 01-BCC-011 (App. Comm., Oct. 6, 2003); and In the Matter of Barkley Financial Corporation, NFA Case No. 05-BCC-020 (App. Comm., July 6, 2007). In addition, as early as 1996, NFA's Board of Directors made it clear to the membership that dramatic profit claims that were not comparable to the performance of a Member's customers' accounts were deemed to be deceptive. (See, Interpretive Notice, NFA Compliance Rule 2-29: Deceptive Advertising, NFA Manual ¶9033, June 4, 1996.

ANSWER: The Answering Respondents deny that Tiger has a practice of highlighting profit opportunities.

14. In the Siegel case, NFA's Appeals Committee cited the 2002 decision of the United States Court of Appeals for the 11th Circuit in CFTC v. R.J. Fitzgerald & Co., in holding that a Member cannot tout substantial and likely profits if their customers are generally suffering losses without disclosing that the vast majority of the Member's customers have lost money.

ANSWER: The Answering Respondents admit that the Siegel case cites to CFTC v.

R.J. Fitzgerald & Co. The cases speak for themselves.

15. NFA's Appeals Committee reiterated its position when it considered the Barkley case in 2007. It stated that:

In Siegel, this Committee specifically held that it was misleading for Siegel APs to imply that profits were almost inevitable without also disclosing that most of Siegel's customers lost money. Although this Committee emphasized that there is no general duty to disclose customer performance, such a duty arises when a firm's APs make profit projections that are contradicted by actual customer performance.

ANSWER: The cases speak for themselves.

16. Ozkan expressed surprise that NFA took issue with the fact that Tiger's standard solicitation touted substantial profits without disclosing the fact that the vast majority of its customers lost money. In fact, he took NFA to task for not giving Tiger notice that it deemed such a sales approach to be misleading, thereby revealing his ignorance of or disregard for the principles enunciated in In the Matter of Siegel Trading Company, Inc.; In the Matter of Barkley Financial Corporation; NFA Interpretive Notice, NFA Compliance Rule 2-29: Deceptive Advertising, NFA Manual ¶9033, June 4, 1996, and CFTC v. R.J. Fitzgerald & Co.

ANSWER: The allegations in this paragraph are not directed against the Answering Respondents.

17. NFA's investigation found that Tiger and its APs not only made misleading sales solicitations but also recommended trades that maximized Tiger's commissions with little or no regard for whether the customer had a fighting chance of achieving a profit.

ANSWER: The Answering Respondents deny that they engaged in such practices.

18. Tiger routinely recommended bull call spreads to its customers. This strategy involves purchasing a call option at one strike price while simultaneously selling a call option at a higher strike price. Commissions and fees on each option were approximately \$115 and, therefore, amounted to about \$230 per spread. (Tiger subsequently lowered its total commissions and fees to approximately \$95 per option just before NFA's Enhanced

Supervisory Procedures began being imposed on Members charging total transaction expenses of \$100 or more beginning on November 1, 2007.)

ANSWER: The Answering Respondents admit that the commissions and fees are approximately \$95 per option all inclusive, but deny the other allegations in this paragraph particularly that the commissions were lowered “just before” the Enhanced Supervisory Procedures went into effect.

19. NFA's analysis of Tiger's customer accounts indicates that the firm chose the strike prices for their spreads simply because they equaled approximately \$1,000 in total costs, with commissions and fees included. This one-size fits all approach to recommending option trades appears to be far more geared toward maximizing commissions than toward giving Tiger's customers a reasonable chance to experience a profit.

ANSWER: The Answering Respondents deny the allegations in this paragraph.

20. Tiger's trading approach of purchasing option spreads with a total cost of around \$1,000 meant that option premiums per spread were in the range of \$750 and that they were virtually all out of the money. This had a substantial negative impact on the likelihood of Tiger's customers experiencing profits since they had to make a 30% return simply to break even. In addition, Tiger's APs sometimes recommended combinations of trades for which the same strategic results could have been achieved with a different combination that involved fewer commission charges.

ANSWER: The Answering Respondents deny the allegations in this paragraph.

21. To make matters worse, Tiger routinely placed trades in customer accounts even though the customer had insufficient equity in the account to cover them. This created immediate margin calls, which, in some cases, were not met for more than a week.

ANSWER: The Answering Respondents deny the allegations in this paragraph.

22. NFA asked Tiger customers what they were told regarding the nature of the trading strategy being recommended by Tiger and the risk of loss inherent in that strategy, particularly in view of the fact that, in most instances, they had to experience a return of around 30% simply to overcome commissions. Their responses made it clear that Tiger did not explain its trading strategy or disclose the risk of loss inherent in trading through Tiger in any meaningful way.

ANSWER: The Answering Respondents deny the allegations in this paragraph.

23. The pervasive violations committed by Tiger and its personnel evidence a gross failure on the part of the firm, Ozkan and Golub to supervise Tiger's employees to ensure compliance with NFA Requirements.

ANSWER: The allegations of this paragraph are not directed against the Answering Respondents.

24. NFA Compliance Rule 2-2(a) provides that no Member or Associate shall cheat, defraud or deceive, or attempt to cheat, defraud or deceive, any commodity futures customer.

ANSWER: The Rule speaks for itself.

25. NFA Compliance Rule 2-4 provides that Members and Associates shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of their commodity futures business.

ANSWER: The Rule speaks for itself.

26. NFA Compliance Rule 2-29(a)(1) provides that no Member or Associate shall make any communication with the public which operates as a fraud or deceit.

ANSWER: The Rule speaks for itself.

27. NFA Compliance Rule 2-9(a) provides that each Member shall diligently supervise its employees and agents in the conduct of their commodity futures activities for or on behalf of the Member. Each Associate who has supervisory duties shall diligently exercise such duties in the conduct of that Associate's commodity futures activities on behalf of the Member.

ANSWER: The Rule speaks for itself.

Count I

28. The allegations contained in paragraphs 1 and 4 through 26 are realleged as paragraph 28.

ANSWER: The Answering Respondents reassert their answers to paragraph 1, and to paragraphs 4-26 as their answers to this paragraph.

29.-50.

ANSWER: These paragraphs are not directed against the Answering Respondents.

50. Navid Djamshidkhah (“Djamshidkhah”) is 42 years old and operates an internet based limousine dispatch service in the Los Angeles area. Djamshidkhah had no experience with commodity futures or options prior to investing with Tiger.

ANSWER: Smith admits the allegations in this paragraph. Further answering, he states that Djamshidkhah owned his own business and had traded stocks previously. He represented his gross annual income is \$400,000, with a liquid net worth of \$300,000 and a total net worth of \$1 million. He clearly had the financial ability and sophistication to trade options on commodities. Djamshidkhah traded with Tiger and Smith from May 2006 – January 2007. During that time he had 4 winning trades and 4 losing trades, with the largest profit on a trade being over 40%. Twice during that time, funds were returned to Djamshidkhah at his request, totaling over \$13,000. During that time, Djamshidkhah never complained to Tiger’s compliance department or any regulator. In December 2006, Djamshidkhah failed to pay for three trades that he authorized, resulting in a debit in his account. Djamshidkhah repeatedly promised to pay for the trades but never did. As a last resort, Tiger obtained a judgment against Djamshidkhah in California state court for the debit. Only after having a judgment entered against him did Djamshidkhah make any complaint about the handling of his account. Djamshidkah’s complaint is clearly a defensive maneuver and he lacks credibility.

51. During April and May 2006, Tiger AP Smith solicited Djamshidkhah to open an account with Tiger. Djamshidkhah told Smith that he did not have any previous futures or options experience but Smith assured him that he didn’t have to watch the markets as the firm would watch the markets for him. Djamshidkhah also told Smith that because the money he was using to invest was from his business, and some was from business loans, he could not afford to lose this money. Smith assured Djamshidkhah that he would make more money investing with Tiger than he would by operating his business and that his business partners would be happy.

ANSWER: Smith admits he solicited Djamshidkhah to open an account with Tiger. Djamshidkhah did represent that he had no prior experience trading commodities but he had

traded stocks before. Based on his income and net worth, he was clearly qualified to trade commodities and make an initial investment of less than 5% of his net worth. Smith denies the remaining allegations in this paragraph. Specifically, Smith denies that Djamshidkhah ever said that he borrowed money to deposit in his Tiger account. Indeed, he told Tiger's compliance department that it was "risk capital" that he could afford to lose. Smith denies that he told Djamshidkhah that he was more likely than not to make money trading commodities, or that he said anything that could be reasonably understood to be a guarantee that Djamshidkhah's trading would be profitable overall.

52. Smith indicated to Djamshidkhah that he was likely to achieve substantial profits and could make a 20 to 30% profit on each trade in the unleaded gas market. Smith said that for every \$.01 move, Djamshidkhah would make \$2,000 per contract. Smith told Djamshidkhah that Tiger knew what it was doing and that he was an expert with a great deal of experience, so Djamshidkhah wouldn't lose money.

ANSWER: Smith admits that he explained to Djamshidkhah that when and if the unleaded gas option spreads went in-the-money, then based on his \$5,000 investment for every \$.01 move, Djamshidkhah's position would increase in value approximately \$2000 after commissions and fees at expiration, and if we are wrong, you could lose the entire investment. Smith denies the remaining allegations in this paragraph and repeats his answer to paragraph 51.

53. Smith also told Djamshidkhah that his other customers were happy and that their money had doubled or tripled. Yet, the truth was that the vast majority of Tiger's and Smith's customers lost money in 2005, which Smith never disclosed to Djamshidkhah.

ANSWER: Smith denies the allegations of this paragraph. Further answering, Smith denies that he discussed the performance of other customers' accounts with Djamshidkhah and he denies that he was obligated to disclose such results.

54. Smith also made no attempt to educate Djamshidkhah on the nature and risks of options trading in general or, more specifically, on the risk of loss inherent with trading options through Tiger. Smith never discussed the time value of options or the concepts of extrinsic and intrinsic value with Djamshidkhah. Further, Smith never discussed in and

out of the money options with Djamshidkhah. Moreover, Smith never explained bull call spreads to Djamshidkhah even though that was the trading strategy that Smith recommended to Djamshidkhah.

ANSWER: Smith denies the allegations of this paragraph. Indeed, the allegations of this paragraph are inconsistent with the allegations in paragraph 52, which show that Smith did discuss the mechanics of options trading with Djamshikhah and intrinsic value vs. extrinsic value.

55. In addition, Smith failed to explain to Djamshidkhah the impact that commissions would have on his likelihood of making a profit or the fact that Djamshidkhah would have to make a 30% return just to break even. Smith never even told Djamshidkhah that options had an expiration date until the day when all of Djamshidkhah's contracts expired worthless.

ANSWER: Smith denies the allegations of this paragraph. There was extensive disclosure of the commissions and the expiration dates of options by Smith, Tiger and the confirmations sent to the customer.

56. Smith's solicitations to Djamshidkhah were misleading in that they exaggerated the profit potential and downplayed the risk of trading in the options markets through Tiger; included profit claims and projections that were not representative of the returns experienced by Tiger's customers; failed to explain the characteristics and fundamentals of options and bull call spreads; failed to explain the impact of commissions on profit potential; and failed to disclose that the majority of Tiger's and Smith's customers lost money.

ANSWER: Smith denies the allegations of this paragraph.

57. In addition to making misleading sales solicitations to Djamshidkhah, Smith further deceived Djamshidkhah by recommending trades to Djamshidkhah that were designed primarily to maximize commissions for Tiger and Smith rather than benefit Djamshidkhah. For example, on the day that Djamshidkhah initially funded his account with \$5,000, Smith purchased 40 September 2006 unleaded gas bull call spreads for Djamshidkhah. Each option spread cost approximately \$1,000. Because Djamshidkhah had only deposited \$5,000, he was immediately faced with a margin call of more than \$34,000. Subsequently, more bull call spreads were acquired for Djamshidkhah's account at Smith's recommendation. Overall, Djamshidkhah invested over \$61,500 and lost almost \$48,000, of which approximately \$41,750 went to commissions and fees.

ANSWER: Smith states that on May 19, 2006, Djamshidkhah authorized a purchase of 40 unleaded gas bull call spreads and represented that the funds to cover the trade would be forthcoming. On May 26, 2006, Tiger received a check for \$40,000 from Djamshidkhah, which is less than 5% of his total net worth. On June 29, 2006, this trade was closed with a profit of \$16,000 *after all commissions and fees were paid*, or a net profit of over 40%. Between May 2006 – January 2007, over \$13,000 was returned to Djamshidkhah. Smith admits that Djamshidkhah's net loss for the account was approximately \$48,000, which was due in part to the fact that Djamshidkhah failed to pay for the final three trades that he authorized.

58. Smith and Tiger's conduct in recommending trades to Djamshidkhah that maximized commissions for Tiger without regard for the best interests of Djamshidkhah constituted a gross breach of their obligation to uphold high standards of commercial honor and just and equitable principles of trade.

ANSWER: Smith denies the allegations of this paragraph.

59. Allan Miller ("Miller") is a retiree from Mount Pleasant, Iowa. He opened an account through Tiger in December 2006 after being solicited by Tiger AP Patton.

ANSWER: Patton admits the allegations of this paragraph. Further answering, Patton states that Miller represented that he had traded commodity futures for 40 years and options for 10 years, both personally and as part of his profession. Though retired, he had an annual income of up to \$100,000 and a net worth of up to \$500,000. He invested a total of \$5,000 in his Tiger account—1% of this total net worth. He was knowledgeable in the cotton market and executed only one trade in his Tiger account—a cotton trade.

60. Patton initially solicited Miller to trade gasoline, telling him that the price of gas was going to go higher and higher. Patton also recommended that Miller invest in cotton. Patton told Miller that farmers were planting more corn and that this would affect the cotton market because less cotton would be planted.

ANSWER: Patton admits that he solicited Miller and recommended investing in unleaded gasoline options. Miller declined because he believed he was knowledgeable in the

cotton market and wanted to trade cotton options. Patton denies that Miller relied on Patton's opinions regarding the cotton market. Patton may have discussed with Miller current supply and demand information and news that might affect the price of cotton. Such discussions are part of a normal broker-client relationship. Patton denies the remaining allegations in this paragraph.

61. Patton claimed that there was no way Miller was going to lose money on his investment because the market wasn't going to go down. Patton said that May futures were going to go higher after the "reports" came out at the first of the year, which would cause prices to rise. Patton told Miller that if he invested \$5,000 he could build it up to \$100,000. Patton never disclosed to Miller that his other customers (he only had four) had all lost money and that a large majority of Tiger's customers had also lost money.

ANSWER: Patton may have discussed with Miller current supply and demand information and news that might affect the price of cotton. Such discussions are part of a normal broker-client relationship. Patton denies that he told Miller that he would build up the account to \$100,000. Patton does not discuss the performance of other customers' accounts with prospective or actual customers, and Patton denies that he was obligated to disclose such results.

62. Patton also never explained to Miller the risks involved in trading in options or the characteristic and fundamentals of options (e.g., strike price, in and out of the money, intrinsic value, etc.) or bull call spreads. In addition, Patton never explained the impact of commissions on Miller's likelihood of making a profit. Nor did Patton ever tell Miller that he would have to experience a 30% profit just to overcome commission expenses.

ANSWER: Patton denies the allegations of this paragraph. There was extensive disclosure of the commissions by Patton, Tiger and the confirmations sent to the customer. Moreover, having traded futures and options for 40 years, Miller was knowledgeable in the risks and mechanics of options trading, and well-aware of the effect of commissions on the likelihood of achieving profits because he lost money trading commodities in the past. Miller was told the exact commissions and fees that would be charged by the broker, by Tiger's compliance department, and by a full-page commission disclosure statement.

63. Patton's solicitations to Miller were misleading in that they exaggerated the profit potential and downplayed the risk of trading in the options markets through Tiger; included profit claims and projections that were not representative of the returns experienced by Tiger's customers; failed to explain the characteristics and fundamentals of options and bull call spreads; suggested that well-known current events would move the market, when such information had already been factored into the market; failed to explain the impact of commissions on profit potential; and failed to disclose that the majority of Tiger's customers lost money.

ANSWER: Patton denies the allegations of this paragraph and he incorporates into his answer to this paragraph his answers to paragraphs 59-62. Further answering, Patton denies that he was obligated to disclose the performance of the accounts of his or Tiger's other customers.

64. In addition to making misleading sales solicitations to Miller, Patton also deceived Miller by making trade recommendations that advantaged Tiger and Patton but were not in the best interest of Miller. For example, the very day Miller opened his account with Tiger with a \$4,000 initial deposit, Patton purchased 10 May 2007 cotton calls for Miller, which generated \$1,200 in commission and fees for Tiger and, at the same time, subjected Miller to a margin call of nearly \$1,000. Miller's cotton calls eventually lost money and overall, Miller ended up losing almost all of his \$5,000 investment.

ANSWER: Patton admits that Miller lost almost all of his \$5,000 investment on one trade. Miller initially authorized a purchase requiring a deposit of \$4,000 and then decided to purchase additional options so he added another deposit to his account. Patton denies the remaining allegations of this paragraph.

65. Patton and Tiger's conduct in recommending trades to Miller that maximized commissions for Tiger without regard for the best interests of Miller constituted a gross breach of their obligation to uphold high standards of commercial honor and just and equitable principles of trade.

ANSWER: Patton denies the allegations in this paragraph.

66. Michael Clark ("Clark") is a 58-year-old rancher from Clyde Park, Montana. Clark had no prior futures or options experience when he opened an account through Tiger in February 2007 after being solicited by Tiger AP Spear.

ANSWER: Spear admits the allegations of this paragraph. Further answering, Clark had 20 years experience trading stocks, bonds and mutual funds. He had a total net worth of \$3

million and an annual income of \$150,000. The \$10,000 Clark invested is less than one-third of one percent of his total net worth. Clark was highly educated and had a college degree in History.

67. Spear told Clark that it was a good time to invest and that gasoline was "going crazy." Spear urged Clark to get in as soon as possible. Spear said that gasoline had cyclical patterns — it goes up in the spring, peaks in the summer, and then goes down in the winter.

ANSWER: Spear denies the allegations in this paragraph.

68. Spear told Clark that he was 'pretty sure' that Clark could make \$27,000 on a \$10,000 investment. On another occasion, Spear told Clark that if he invested in gasoline he would double his money by early summer and then he could relax with his lemonade.

ANSWER: Spear denies the allegations in this paragraph. Further answering, on his first three trades, Clark made approximately \$5,500 in profits on an investment of \$10,000 in approximately 90 days. At the end of approximately 6 months of trading, Clark had a profit of approximately 40%.

69. Spear claimed that he had never seen the gas market this high this early. Spear told Clark that he was crazy if he didn't invest more money. Spear urged Clark to quickly get as much money as possible because gasoline was going to go nuts in the next month or two. Spear told Clark that he makes more money when Clark makes more money.

ANSWER: Spear denies the allegations of this paragraph.

70. Spear never disclosed to Clark that the vast majority of his and Tiger's customers suffered overall losses in 2005 and 2006 and that his customers, alone, lost more than \$700,000 in those two years.

ANSWER: Spear denies that he was obligated to disclose the performance of the accounts of his or Tiger's other customers.

71. In addition, Spear never explained to Clark the characteristics and fundamentals of options, such as time decay and intrinsic and extrinsic value, other than to tell Clark that "there were deadlines with futures, and he would tell Clark when the deadlines came." Spear also never explained the mechanics of bull call spreads to Clark or the impact commissions would have on Clark's ability to make a profit in his account.

ANSWER: Spear denies the allegations of this paragraph. In fact, the mechanics of trading options was discussed by Spear and disclosed repeatedly by literature sent to Clark such as the Tiger Trading Ideas.

72. Spear's solicitations to Clark were misleading in that they exaggerated the profit potential and downplayed the risk of trading in the options markets through Tiger; included profit claims and projections that were not representative of the returns experienced by Tiger's customers; suggested that well-known trading trends would move the market, when such information had already been factored into the market; failed to explain the characteristics and fundamentals of options and bull call spreads; failed to explain the impact of commissions on profit potential; and failed to disclose that the vast majority of Spear's and Tiger's customers lost money.

ANSWER: Spear denies the allegations of this paragraph. Further answering, it is not illegal for a broker to discuss current supply and demand information and other news that may affect the price of the underlying commodity and futures contract of a trade being recommended or an existing open position.

73. Overall, Clark invested \$10,000 with Tiger and lost more than \$9,250, including almost \$8,900 in commission and fee expenses.

ANSWER: Spear admits the allegations of this paragraph.

74. – 93.

ANSWER: These paragraphs are not directed to the Answering Respondents.

94. By reason of the foregoing acts and omissions, Tiger, Chalis, Andhari, Smith, Patton, Spear, Young and Brueck are charged with violations of NFA Compliance Rules 2-2(a), 2-4, and 2-29(a)(1).

ANSWER: The Answering Respondents deny they violated NFA Compliance Rules 2-2(a), 2-4, and 2-29(a)(1).

COUNT II

95. ~ 104.

ANSWER: These paragraphs are not directed to the Answering Respondents.

FOR THE FOREGOING REASONS, Dustin Smith, Michael Patton and James Spear, deny that they violated any rules of the National Futures Association, and respectfully request that this Complaint against them be dismissed.

DATED: September 19, 2008

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Kenneth F. Berg, an attorney, depose and state that I caused the above and foregoing **Respondents Smith, Patton and Spear Answer to BCC Complaint** to be served upon:

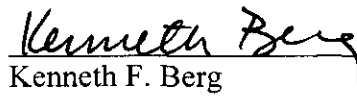
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by addressing and mailing a copy to the above-listed on this 19th day of September 2008
from One North Franklin, Chicago, IL 60606 at or about 5:00 p.m.


Kenneth F. Berg