

In support of these actions, NFA has attached the affidavit of Diane Seidel, who is a Manager in NFA's Compliance Department, and based thereon alleges as follows:

1. BKT became registered as a CTA and an NFA Member on November 8, 2011 and is located in New York, New York. Fayadh became an AP and NFA Associate and a listed principal of BKT on November 8, 2011. BKT is pending as a Forex firm, and Fayadh is also pending as a Forex AP. Fayadh told NFA that neither he nor BKT can be approved as a Forex AP or Forex Firm because Fayadh has been unable to pass the Series 34 exam despite taking it several times.¹
2. In early January 2012, NFA's Forex Transaction Reporting Execution and Surveillance System (FORTRESS) reported that Fayadh had recently opened an account in his name at an NFA FDM and had funded the account with approximately \$50,000 on January 9, 2012. Prior to working at BKT, Fayadh was a managing member of Paragon FX Enterprises LLC (Paragon FX), a firm which NFA believes operated as an unregulated and unregistered counterparty to retail forex transactions from approximately October 2010 through June 2011. On October 31, 2011, the Commodity Futures Trading Commission (CFTC) filed a complaint for injunctive relief and other equitable relief and civil monetary penalties under the Commodity Exchange Act against Paragon FX in the United States District Court for the Southern District of New York. As a result of Fayadh's affiliation with Paragon FX, NFA commenced an unannounced examination of BKT on Tuesday, January 24, 2012.
3. At the beginning of the exam, NFA asked Fayadh for a list of all firms with which he was affiliated, owned or operated. Other than BKT, Fayadh indicated that the only other company with which he was affiliated, owned or operated was RC Trading (RC) and that RC developed trading algorithms.
4. NFA also asked Fayadh if he maintained any forex trading accounts in either his name or BKT's name. Fayadh said he had two trading accounts at two different NFA FDMs but that both accounts had been closed for a while. Fayadh did not disclose the \$50,000 account that NFA was aware of as a result of the FORTRESS system.
5. NFA told Fayadh that it was aware of an open and active forex trading account in his name and asked Fayadh why he had failed to disclose this information to NFA. Fayadh did not elaborate on why he had failed to disclose the existence of this account, and would only say that there must be a mistake because that trading account was not in his name, but rather was an institutional account. NFA asked him for the name of the institution, but Fayadh refused to tell NFA.

¹ Individuals who register after October 18, 2010 that want to engage in off exchange retail forex business with retail customers must pass the Series 34 exam before doing so. Firms that want to engage in off exchange retail forex cannot do so without at least one Forex approved AP and principal.

6. Later that same day (January 24, 2012), Fayadh told NFA that he had contacted the FDM which held the \$50,000 account and that the FDM had incorrectly titled the account in his name, rather than the institution's name. During this same conversation, Fayadh also disclosed the institution's name to NFA: BK Trading. NFA asked Fayadh why he had failed to disclose his affiliation with BK Trading when NFA had first asked, and Fayadh claimed that BK Trading "was outside of NFA's jurisdiction" and that the information was "proprietary." According to the FDM which maintains this account, its current value is \$32,801.
7. NFA then asked Fayadh for the corporate formation documents for both BK Trading and RC. Fayadh claimed he could not give this information to NFA because he didn't "really have the authority to give out the documents on my own." However, NFA independently learned that Fayadh was in fact the only director of BK Trading. When NFA confronted Fayadh with this information, he said that was no longer true and he was no longer a director of the company.
8. NFA also asked Fayadh to provide all bank account statements for BKT, which revealed minimal account activity. Given the lack of activity in the firm's bank account, NFA asked Fayadh how BKT paid its operating expenses. Fayadh indicated they were paid out of his personal bank account. Therefore, NFA asked for copies of those bank account records.
9. Fayadh initially refused to provide these bank records citing privacy concerns. NFA told Fayadh he was obligated to produce them, and also explained that it needed to verify that Fayadh was not accepting customer funds in his personal bank account and then using those monies to fund the trading account at the FDM. Fayadh eventually agreed to provide redacted bank records to NFA, and NFA explained that depending on the information in the bank records, it might ultimately need complete, unredacted copies of the statements.
10. Later that afternoon, on January 24, 2012, Fayadh produced the bank records to NFA. Despite his attempt to redact certain portions of those records, NFA could decipher certain transactions which showed that Fayadh was receiving payments from BK Trading (two separate transfers which totaled approximately \$23,000). Other transactions were also redacted, but NFA could not decipher those.
11. On the morning of January 25, 2012, when NFA asked Fayadh to explain the payments from BKT Trading, he admitted that BKT Trading was in fact his company, even though just the day before he had claimed that he had no current affiliation with BKT Trading. Fayadh told NFA he had lied earlier because he did not think NFA had "the right to ask such questions."

12. Given the inconsistent and misleading information Fayadh provided to NFA on the morning of January 25, 2012, NFA posed a series of questions to Fayadh by e-mail and told him to respond in writing. In addition, since Fayadh had tried to mislead NFA by redacting certain transactions on the bank account statements, NFA also told Fayadh that he would need to produce complete, unredacted bank statements for the bank account.
13. Fayadh responded immediately to NFA's e-mailed request by calling NFA and indicating that he would no longer cooperate with any of the requests for information or documents and that NFA should go through his attorney. NFA told Fayadh that was not acceptable, and that if he did not cooperate, he could face immediate disciplinary action, up to and including the issuance of an MRA/ARA. He responded by saying he would simply withdraw his NFA membership.
14. Shortly after this phone conversation on the morning of January 25, 2012, NFA learned from the FDM which maintained Fayadh's trading account that Fayadh had liquidated all open positions and requested an immediate withdrawal of the funds in the trading account.
15. NFA immediately contacted Fayadh's attorney by phone and told him that Fayadh should not withdraw funds from the trading account until he could demonstrate to NFA that these were not customer funds, and that Fayadh should copy NFA on the e-mail to the FDM canceling his withdrawal request. NFA also reiterated its prior requests for information and documents and formally reminded Fayadh of his obligation under NFA Compliance Rule 2-5 to cooperate promptly and fully with NFA during its examination of the firm. Fayadh failed to comply with these requests, and in fact contacted the FDM which maintains the trading account and asked how quickly he could receive the funds.
16. Based on Fayadh's failure to produce the requested bank records, NFA is unable to determine the source of funds in the trading account in Fayadh's name held at the FDM. Therefore, it is extremely troubling to NFA that Fayadh has not only deliberately misled NFA and failed to cooperate with NFA during its investigation of BKT, but that he has asked that money in the trading account be immediately transferred to his control.

The MRA and ARA will remain in effect until such time as BKT and Fayadh have demonstrated to the satisfaction of NFA that the firm is in complete compliance with all NFA Requirements.

BKT and Fayadh are entitled to a prompt hearing on this matter before NFA's Hearing Committee if it so requests. The request for a hearing shall be made in writing to:

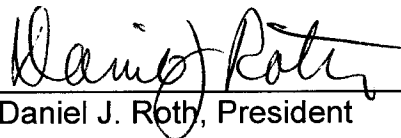
National Futures Association
300 South Riverside Plaza
Suite 1800
Chicago, Illinois 60606
Attn: Legal Department-Docketing

E-Mail: Docketing@nfa.futures.org
Facsimile: 312-781-1672

Aggrieved parties may petition the CFTC for a stay of this MRA and ARA pending a hearing pursuant to and in conformity with the terms set forth in CFTC Regulation 171.41.

NATIONAL FUTURES ASSOCIATION

Date: 1-27-12

By: 
Daniel J. Roth, President

(ecs:MRA\2012:MRA_BKT, Fayadh FINAL (1.21).docx)

AFFIDAVIT

THE AFFIANT, DIANE SEIDEL, BEING DULY SWORN AND UNDER
OATH STATES THAT:

1. My name is Diane Seidel, and I am employed by National Futures Association (NFA) as a Manager in the Compliance Department. In my capacity as a Manager, I participated in and oversaw an examination and investigation of BKT Capital Management, LLC (BKT), a registered commodity trading advisor (CTA) and a Member of NFA and Basil Fayadh (Fayadh), an associated person (AP), listed principal of BKT and an NFA Associate.
2. BKT became registered as a CTA and an NFA Member on November 8, 2011 and is located in New York, New York. Fayadh became an AP and NFA Associate and a listed principal of BKT on November 8, 2011. KT is pending as a Forex firm, and Fayadh is also pending as a Forex AP. Fayadh told NFA that neither he nor BKT can be approved as a Forex AP or Forex Firm because Fayadh has been unable to pass the Series 34 exam despite taking it several times.¹
3. In early January 2012, NFA's Forex Transaction Reporting Execution and Surveillance System (FORTRESS) reported that Fayadh had recently opened an account in his name at an NFA FDM and had funded the account with approximately \$50,000 on January 9, 2012. Prior to working at BKT, Fayadh was a managing member of Paragon FX Enterprises LLC (Paragon FX), a firm which NFA believes operated as an unregulated and unregistered counterparty to retail forex transactions from approximately October 2010 through June 2011. On October 31, 2011, the Commodity Futures Trading Commission filed a complaint for injunctive relief and other equitable relief and civil monetary penalties under the Commodity Exchange Act against Paragon FX in the United States District Court for the Southern District of New York. As a result of Fayadh's affiliation with Paragon FX, NFA commenced an unannounced examination of BKT on Tuesday, January 24, 2012.
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10. Fayadh initially refused to provide these bank records citing privacy concerns. NFA told Fayadh he was obligated to produce them, and also explained that it needed to verify that Fayadh was not accepting customer funds in his personal bank account and then using those monies to fund the trading account at the FDM. Fayadh eventually agreed to provide redacted bank records to NFA, and NFA explained that depending on the information in the bank records, it might ultimately need complete, unredacted copies of the statements.

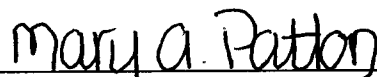
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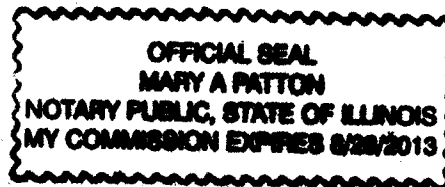
Fayadh has not only deliberately misled NFA and failed to cooperate with NFA during its investigation of BKT, but that he has asked that money in the trading account be immediately transferred to his control.

Further Affiant sayeth naught.


Diane Seidel

Subscribed and sworn to before me
on this 27th day of January 2012.


Notary Public



(ecs:MRA\2012:MRA_BKT, Fayadh FINAL 1 (1.21).docx)

AFFIDAVIT OF SERVICE

I, Nancy Miskovich-Paschen, on oath state that on January 27, 2012, I served copies of the attached Notice of Member Responsibility Action and Associate Responsibility Action Under NFA Compliance Rule 3-15, by sending such copies by facsimile and overnight delivery, in envelopes addressed as follows to:

David Stawick
Office of the Secretariat
Commodity Futures Trading
Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
(Facsimile: 202-418-5521)

Terry Montgomery
Division of Enforcement
Commodity Futures Trading
Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
(Facsimile: 202-418-5523)

and by sending such copies by e-mail and overnight delivery, in envelopes addressed as follows to:

BKT Capital Management LLC
22 Cortlandt Street
Suite 1615
New York, NY 10007
Attn: Basil R. Fayadh
E-mail: basil@paragonfx.com

Basil R. Fayadh
90 North 5th Street
#1A
Brooklyn, NY 11211
E-mail: info@bktcap.com

Institutional Liquidity LLC
2625 Denison Drive
Suite A
Mt. Pleasant, MI 48858
Attn: James Pieron
E-mail: james.pieron@ilq.com

and by sending such copy by e-mail and messenger service, in an envelope addressed as follows to:

FC Stone LLC
230 South LaSalle Street
Suite 10-500
Chicago, IL 60604
Attn: Clarence C. Delbridge
E-mail: kip.delbridge@fcstone.com

Nancy Miskovich-Paschen
Nancy Miskovich-Paschen

Subscribed and sworn to before me
on this 27th day of January 2012.

Mary A. Patton
Notary Public

