

**FILED**

**NATIONAL FUTURES ASSOCIATION  
BEFORE THE  
BUSINESS CONDUCT COMMITTEE**

NOV 29 2007

**NATIONAL FUTURES ASSOCIATION  
LEGAL DOCKETING**

In the Matter of: )  
)  
SOLID GOLD FINANCIAL )  
SERVICES, INC. ) NFA Case No. 07-BCC-046  
(NFA ID #325412), )  
)  
Respondent. )

**COMPLAINT**

Having reviewed the investigative report submitted by the Compliance Department of National Futures Association ("NFA"), and having found reason to believe that NFA Requirements are being, have been, or are about to be violated and that the matter should be adjudicated, NFA's Business Conduct Committee ("BCC") issues this Complaint against Solid Gold Financial Services, Inc. ("Solid Gold").

**ALLEGATIONS**

**JURISDICTION**

1. At all times relevant to this Complaint, Solid Gold was a registered futures commission merchant ("FCM") and an NFA Forex Dealer Member ("FDM") located in San Francisco, California.

**APPLICABLE RULES**

2. NFA Compliance Rule 2-2(f) provides, in pertinent part, that no Member shall willfully submit materially false or misleading information to NFA or its agents.
3. NFA Compliance Rule 2-36(b)(1) provides, in pertinent part, that no FDM shall cheat, defraud or deceive, or attempt to cheat, defraud, or deceive any other person.

4. NFA Compliance Rule 2-36(c) provides that FDMs and their Associates shall observe high standards of commercial honor and just and equitable principles of trade in conduct of their forex business.
5. NFA Compliance Rule 2-36(g) provides, in pertinent part, that when a customer first opens an account and at least once a year thereafter, each FDM shall provide each customer with written information regarding NFA's Background Affiliation Status Information Center ("BASIC").
6. NFA Financial Requirements Section 11(a) provides, in pertinent part, that each FDM must maintain adjusted net capital, as defined in Commodity Futures Trading Commission ("CFTC") Regulation 1.17, equal to or in excess of \$1 million.
7. NFA Financial Requirements Section 11(b) provides, in pertinent part, that each FDM must take a concentration charge on transactions with an unaffiliated, unregulated counterparty if the FDM's net open position with the unregulated counterparty exceeds 10% of the FDM's total long or short position in a particular currency. The amount exceeding 10% will be subject to the CFTC's haircut for uncovered positions.
8. NFA Financial Requirements Section 12(a) provides, in pertinent part, that an FDM shall collect security deposits equal to at least 1% or 4% of the notional value of forex transactions with customers, depending upon the currency.

#### COUNT I

#### **VIOLATION OF NFA COMPLIANCE RULE 2-36(b)(1): USE OF DECEPTIVE PROMOTIONAL MATERIAL.**

9. The allegations contained in paragraphs 1 and 3 are realleged as paragraph 9.
10. In October 2006, Solid Gold submitted to NFA for review a script for a television

advertisement it intended to run.

11. After reviewing the script, NFA, on October 12, 2006, provided Solid Gold with certain revisions to be made to the script so that the advertisement would be in compliance with NFA rules. NFA also directed Solid Gold to resubmit the script after it had been revised.
12. On October 18, 2006, Solid Gold submitted a revised script to NFA that included the revisions. NFA then informed Solid Gold that the firm may run the advertisement, but that it must provide a copy of the advertisement to NFA after it was broadcast on television.
13. On October 24, 2006, NFA received a copy of the advertisement that was broadcast. NFA's review revealed that the advertisement broadcast was not the same as the revised script that Solid Gold had submitted to NFA.
14. Moreover, NFA found that the advertisement that was broadcast was misleading. The advertisement failed to disclose that the forex trading being offered was not conducted on an exchange and it included a discussion about the advantages of leverage without an equally prominent disclaimer that increasing leverage increases risk, as provided by NFA's Interpretive Notice entitled "Forex Transactions" ("Forex Interpretive Notice"), which states that any discussion regarding the advantages of leverage must be balanced with an equally prominent contemporaneous disclosure that increasing leverage increases risk.
15. By reason of the foregoing acts and omissions, Solid Gold is alleged to have violated NFA Compliance Rule 2-36(b)(1).

## COUNT II

### VIOLATION OF NFA COMPLIANCE RULE 2-2(f): SUBMITTING FALSE OR MATERIALLY MISLEADING INFORMATION TO NFA.

16. The allegations contained in paragraphs 1 and 2, and 10 through 14 are realleged as paragraph 16.
17. As alleged above, in October 2006, Solid Gold submitted to NFA for review a script for a television advertisement it intended to run. On October 18, 2006, Solid Gold submitted to NFA a script that had been revised based on comments from NFA. Solid Gold represented that this revised script would be used for the advertisement it intended to broadcast on television.
18. When NFA obtained a copy of the advertisement that was actually broadcast, however, it found that it was not the same as the revised script that had been submitted to NFA. In fact, it was not even the same as the original script Solid Gold had submitted to NFA.
19. Accordingly, Solid Gold submitted materially false or misleading information to NFA when it submitted what it represented were scripts to be used in a television advertisement, but in fact neither of the scripts submitted was the one actually used.
20. By reason of the foregoing acts and omissions, Solid Gold is charged with violations of NFA Compliance Rule 2-2(f).

## COUNT III

### VIOLATION OF NFA FINANCIAL REQUIREMENTS SECTIONS 11(b): FAILING TO TAKE APPLICABLE CONCENTRATION CHARGES.

21. The allegations contained in paragraphs 1 and 7 are realleged as paragraph 21.
22. In October 2006, NFA commenced an examination of Solid Gold that revealed,

among other things, that the firm failed to take the applicable concentration charge on transactions with certain counterparties.

23. Specifically, Solid Gold did not apply the concentration charge to any counterparty that it determined was an eligible contract participant.
24. By reason of the foregoing acts or omissions, Solid Gold is charged with violations of NFA Financial Requirements Section 11(b).

#### **COUNT IV**

#### **VIOLATION OF NFA FINANCIAL REQUIREMENTS SECTION 11(a): FAILING TO MAINTAIN ADEQUATE ADJUSTED NET CAPITAL.**

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25. The allegations contained in paragraphs 1 and 6 are realleged as paragraph 25.
26. After applying the applicable concentration charge referenced above in Count III, Solid Gold was under the required minimum adjusted net capital for September 2006.
27. Solid Gold was also under the required minimum adjusted net capital for April 2007.
28. By reason of the foregoing acts and omissions, Solid Gold is charged with violations of NFA Financial Requirements Section 11(a).

#### **COUNT V**

#### **VIOLATION OF NFA FINANCIAL REQUIREMENTS SECTION 12(a): FAILING TO COLLECT THE REQUIRED MINIMUM SECURITY DEPOSIT.**

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29. The allegations contained in paragraphs 1 and 8 are realleged as paragraph 29.
30. During its examination, NFA found that Solid Gold had failed to collect and maintain the required security deposit as prescribed by NFA Financial Requirements Section 12(a).
31. Specifically, when a customer would enter into a spread position the firm would

only collect a security deposit on the buy transaction and not both transactions, as required.

32. By reason of the foregoing acts and omissions, Solid Gold is charged with violations of NFA Financial Requirements Section 12(a).

#### **COUNT VI**

#### **VIOLATION OF NFA COMPLIANCE RULE 2-36(g): FAILING TO PROVIDE THE REQUIRED BASIC DISCLOSURE.**

33. The allegations contained in paragraphs 1 and 5 are realleged as paragraph 33.
34. Solid Gold failed to provide all of the firm's customers with the required disclosure regarding NFA's BASIC system when customers first opened their account' and each year thereafter.
35. By reason the foregoing acts and omissions, Solid Gold is charged with violations of NFA Compliance Rule 2-36(g).

#### **COUNT VII**

#### **VIOLATION OF NFA COMPLIANCE RULE 2-36(c): FAILING TO OBTAIN PERTINENT INFORMATION FROM CUSTOMERS.**

36. The allegations contained in paragraphs 1 and 4 are realleged as paragraph 36.
37. The Forex Interpretive Notice provides that a FDM must, at a minimum, obtain the customer's name, address, principal occupation or business, current estimated annual income and net worth, age, and an indication of the customer's previous investment and trading experience.
38. During its examination, NFA found that Solid Gold had not obtained all of the required information for all of its customers.
39. Specifically, Solid Gold had failed to obtain employment and occupation information for certain customers.

40. By reason of the foregoing acts and omissions, Solid Gold is charged with violations of NFA Compliance Rule 2-36(c).

### **PROCEDURAL REQUIREMENTS**

#### **ANSWER**

You must file a written Answer to the Complaint with NFA within thirty days of the date of the Complaint. The Answer shall respond to each allegation in the Complaint by admitting, denying or averring that you lack sufficient knowledge or information to admit or deny the allegation. An averment of insufficient knowledge or information may only be made after a diligent effort has been made to ascertain the relevant facts and shall be deemed to be a denial of the pertinent allegation.

The place for filing an Answer shall be:

National Futures Association  
200 West Madison Street  
Suite 1600  
Chicago, Illinois 60606-3447  
Attn: Legal Department-Docketing

Failure to file an Answer as provided above shall be deemed an admission of the facts and legal conclusions contained in the Complaint. Failure to respond to any allegation shall be deemed an admission of that allegation. Failure to file an Answer as provided above shall be deemed a waiver of hearing.

#### **POTENTIAL PENALTIES, DISQUALIFICATION AND INELIGIBILITY**

At the conclusion of the proceedings conducted as a result of or in connection with the issuance of this Complaint, NFA may impose one or more of the following penalties:

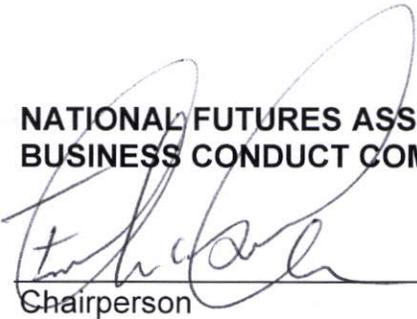
- (a) expulsion or suspension for a specified period from NFA membership;

- (b) bar or suspension for a specified period from association with an NFA Member;
- (c) censure or reprimand;
- (d) a monetary fine not to exceed \$250,000 for each violation found; and
- (e) order to cease and desist or any other fitting penalty or remedial action not inconsistent with these penalties.

The allegations in this Complaint may constitute a statutory disqualification from registration under Section 8a(3)(M) of the Commodity Exchange Act. Respondents in this matter who apply for registration in any new capacity, including as an associated person with a new sponsor, may be denied registration based on the pendency of this proceeding.

Pursuant to the provisions of CFTC Regulation 1.63 penalties imposed in connection with this Complaint may temporarily or permanently render Respondents who are individuals ineligible to serve on disciplinary committees, arbitration panels and governing boards of a self-regulatory organization, as that term is defined in CFTC Regulation 1.63.

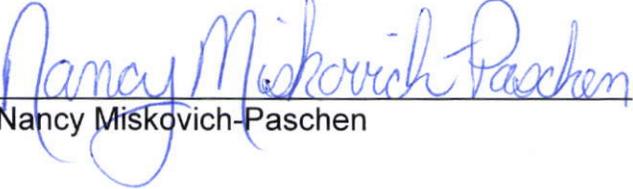
Dated: 11/29/07

**NATIONAL FUTURES ASSOCIATION  
BUSINESS CONDUCT COMMITTEE**  
By:   
Chairperson

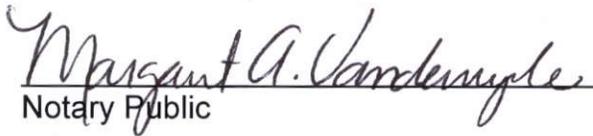
**AFFIDAVIT OF SERVICE**

I, Nancy Miskovich-Paschen, on oath state that on November 29, 2007, I served a copy of the attached Complaint, by sending such copy in the United States mail, first-class delivery, and by overnight mail, in envelopes addressed as follows:

Solid Gold Financial Services, Inc.  
111 Pine Street  
Suite 1300  
San Francisco, CA 94111  
Attn: Stan Ehrlich, President

  
Nancy Miskovich-Paschen

Subscribed and sworn to before me  
on this 29th day of November 2007.

  
Notary Public

