

**FILED**

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

**DEC 20 2007**

**NATIONAL FUTURES ASSOCIATION  
LEGAL DOCKETING**

In the Matter of: )  
)  
JAGUAR TRADING )  
(NFA ID #374704), )  
)  
and ) NFA Case No. 07-BCC-050  
)  
JONATHAN J. BERMAN )  
(NFA ID #250895), )  
)  
Respondents. )

**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 ("Committee") issues this Complaint against Jaguar Trading ("Jaguar") and Jonathan J. Berman ("Berman").

**ALLEGATIONS**

**JURISDICTION**

1. At all times relevant to this Complaint, Jaguar was a National Futures Association ("NFA") Member introducing broker ("IB") located in Los Angeles, California.
2. At all times relevant to this Complaint, Berman was Jaguar's president, sole principal and an associated person ("AP") of Jaguar and an NFA Associate.

### **BACKGROUND**

3. Berman has previously worked at a number of other NFA Member firms, including three firms that have been barred from the futures industry for sales practice fraud. Based on Berman's prior employment at these Disciplined Firms, members of NFA's Enhanced Surveillance Program posed as potential investors in order to get solicited by Jaguar's sales force for the purpose of monitoring their sales solicitations for compliance with NFA sales practice rules. As a result of these efforts, two NFA staff were solicited by Berman. As alleged, however, Berman's sales solicitations to the NFA staff members were misleading in nature in that they exaggerated profit potential and minimized risk of loss.

### **APPLICABLE RULES**

4. NFA Compliance Rule 2-2(a) provides no Member or Associate shall cheat, defraud or deceive, or attempt to cheat, defraud or deceive, any commodity futures customer.
5. 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.

### **COUNT I**

#### **VIOLATION OF NFA COMPLIANCE RULE 2-2(a) AND 2-29(a)(1): MAKING MISLEADING AND DECEPTIVE SALES SOLICITATIONS.**

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6. The allegations contained in paragraphs 1 through 5 are realleged as paragraph 6.

7. On May 7, 2007, NFA Compliance staff member Jessica Harris ("Harris"), posing as a prospective customer, completed a form on Jaguar's website requesting additional information about the firm and futures trading.
8. That same day, Harris received a call from Berman. Berman asked if Harris had ever invested in commodities or stocks before; Harris indicated that she had never invested in either, and did not know what commodities were. Berman said that commodities were things such as heating oil, gold, silver, and cocoa.
9. Harris informed Berman that she had \$10,000 in savings. Berman said that \$10,000 was the amount Harris needed to open the account. Berman told Harris that she could make a lot of money in commodities and that "\$10,000 will make \$50,000."
10. Berman indicated that he would be Harris's broker and would tell her when to buy and sell. In a subsequent conversation, Berman told Harris that by August she could make \$65,000 off of an investment of \$10,000.
11. Berman sent a customer account package to Harris via overnight mail and contacted her the next day to inquire if she had received the package. When Harris replied that she had not received the package, Berman indicated that he would check on it and get back to her. Berman assured Harris that he would have her "making money in the next ten days."
12. Over the next several days, Berman called Harris a number of times to see if she had received the customer account package. Harris indicated that she had received the package but wanted some time to review it. Berman told Harris that it was unnecessary for her to review the package and that she only had to sign

and date the highlighted areas, write a check, and FedEx everything back.

Berman said, "it's that simple."

13. In a subsequent conversation, Harris told Berman that she was uncomfortable giving \$10,000 to a perfect stranger. Berman stated that he could foresee Harris's money going from \$10,000 to \$65,000 in the next few months. When Harris said that she was still wary about giving him \$10,000, Berman replied that Jaguar's guarantor was highly regulated, that an account at its guarantor was "similar to a bank account," and that Harris could take out her money whenever she wanted.
14. Harris did not speak with Berman again until mid-July, when Berman called Harris to tell her that his customers had been doing well and that "\$10,000 is returning \$35,000." Berman said that he was getting his clients into currencies, corn, and sugar. When Harris indicated she was still unsure about opening an account, Berman assured Harris that she could "make a lot of money."
15. Berman's solicitations to Harris were misleading in that they exaggerated profit potential and included claims that Jaguar's and Berman's other customers were making money, when, in fact, most had lost money – which Berman failed to disclose to Harris. In addition, Berman downplayed risk. Although Berman told Harris that futures and options trading involves high risk and that she could lose her investment, Berman's discussions of risk were followed by assurances that it was unlikely Harris would lose her investment and that she could make lots of money.

16. On August 6, 2007, NFA Compliance staff member Aaron Leong ("Leong"), posing as a prospective customer, completed a form on Jaguar's website requesting additional information about the firm and futures trading. Leong subsequently received a call from Berman, who asked what markets Leong was interested in and how much money he had available to invest. Leong told Berman that he was interested in both crude oil and gold and would be able to invest \$45,000. Berman said that he liked crude oil "because of China and India" which had caused an increase in demand that would likely cause prices to increase.
17. Leong asked Berman about the difference between futures and options. Berman explained that with options Leong would never receive a margin call and that the options market is fully liquid and regulated, so that Leong could get his money whenever he needed. Berman told Leong that the potential to make money with options was unlimited.
18. Berman indicated to Leong that he was also recommending natural gas, as well as heating oil, as the price should go up because winter was nearing and more people would be using natural gas to heat their homes. Berman stated that this made the commodity a natural potential money maker. Berman told Leong that he was looking for a return of ten times Leong's initial investment.
19. Berman called Leong again several days later and asked if Leong had received the account opening documents that Berman had sent. Berman told Leong that he wanted Leong to return the package as soon as possible, as the natural gas

market was making a move and Berman wanted Leong to be able to take advantage of the move.

20. Berman contacted Leong again several weeks later. Berman said that heating oil was at all-time highs, and that Leong should try to take advantage of this. Berman indicated that he was looking at returns of \$250,000 on a \$50,000 investment by the end of December. Berman told Leong that, although there is a risk of loss trading commodities and past performance is not indicative of future results, with options, Leong could never lose more than the initial investment.
21. Berman's solicitations to Leong were misleading in that they exaggerated profit potential; suggested that well-known current events and weather trends would move the markets higher, without disclosing that such information had already been factored into the markets; and failed to disclose that most of Jaguar's and Berman's customers had lost money, contrary to Berman's rosy profit claims.
22. By reason of the foregoing acts and omissions, Jaguar and Berman are charged with violations of NFA Compliance Rules 2-2(a) and 2-29(a)(1).

### **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:

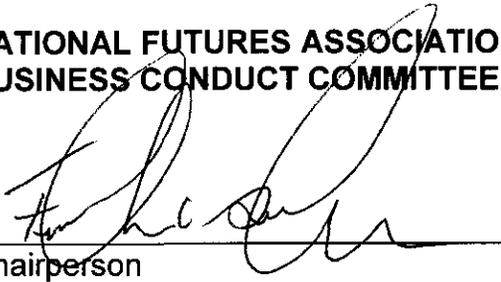
- (a) expulsion or suspension for a specified period from NFA membership;
- (b) bar or suspension for a specified period from association with an NFA Member;
- (c) censure or reprimand;
- (d) a monetary fine not to exceed \$250,000 for each violation found; and
- (e) order to cease and desist or any 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 Commodity Futures Trading Commission 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.

**NATIONAL FUTURES ASSOCIATION  
BUSINESS CONDUCT COMMITTEE**

Dated: 12-20-07

By:   
Chairperson

/jac(Complaints\Jaguar)

**AFFIDAVIT OF SERVICE**

I, Nancy Miskovich-Paschen, on oath state that on December 20, 2007, I served copies of the attached Complaint, by sending such copies in the United States mail, first-class delivery, and by overnight mail, in envelopes addressed as follows:

Jaguar Trading  
1115 South Wooster Street  
Apt. 204  
Los Angeles, CA 90035  
Attn: Jonathan Berman

  
Nancy Miskovich-Paschen

Subscribed and sworn to before me  
on this 20th day of December 2007.

  
Notary Public

