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MAY - 7 2008

NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

NATIONAL FUTURES ASSOCIATION
BEFORE THE
BUSINESS CONDUCT COMMITTEE

In the Matter of:	)	
	)	
RYAN S. CUBIOTTI	)	NFA Case No. 07-BCC-051
(NFA ID #320990),	)	
	)	
Respondent.	)	

DECISION

Having reviewed all matters relevant to the Complaint issued by the Business Conduct Committee ("Committee") of National Futures Association ("NFA") against Ryan S. Cubiotti ("Cubiotti") in the above-captioned proceeding, and having found that Cubiotti was duly served with the Complaint and that he did not file an Answer to the Complaint, the Committee hereby issues the following Decision as to Cubiotti.

I

ALLEGED VIOLATIONS OF NFA REQUIREMENTS

On December 21, 2007, the Committee issued a Complaint against Cubiotti in which it alleged that Cubiotti failed to comply with the taping requirements imposed on him by an NFA Hearing Panel in a prior sales practice case, in violation of NFA Compliance Rule 2-5; and made deceptive and misleading sales solicitations, in violation of NFA Compliance Rules 2-2(a) and 2-29(a)(1).

II

FAILURE TO RESPOND

The Complaint was served on Cubiotti by first-class mail and overnight delivery to the last address that he had provided to NFA, as required under NFA Compliance Rule 3-3(a). Pursuant to NFA Compliance Rules 3-4 and 3-6, Cubiotti was given notice in the Complaint that he was required to file a written Answer with NFA within thirty days. He was further informed in the Complaint that a failure to file an Answer would be deemed to be an admission of the facts and legal conclusions alleged in the Complaint and a waiver of his right to a hearing.

Cubiotti failed to respond to the Complaint in any way and NFA sent another copy of the Complaint to him on February 19, 2008, along with a letter that noted that he had not filed a timely Answer and reminded him that, under NFA Compliance Rule 3-4, his failure to answer would be deemed to be an admission of all of the allegations of the Complaint and a waiver of his right to a hearing. The letter further informed Cubiotti that if he intended to file an Answer he should do so by February 26, 2008. Cubiotti has neither filed an Answer to the Complaint nor otherwise responded to it.

III

FINDINGS AND CONCLUSIONS

The Committee finds that Cubiotti was duly served with the Committee's Complaint at the last address that he provided to NFA. The Committee further finds that he failed to answer the Complaint. Pursuant to NFA Compliance Rule 3-6(b), Cubiotti is, therefore, deemed to have admitted the facts and legal conclusions alleged against

him in the Complaint and to have waived his right to a hearing. Therefore, the Committee finds that Cubiotti committed each and every violation alleged against him in the Complaint. Specifically, the Committee finds that Cubiotti failed to comply with the taping requirements imposed on him by an NFA Hearing Panel in a prior sales practice case, and made misleading sales solicitations, in violation of NFA Compliance Rules 2-5, 2-2(a) and 2-29(a)(1).

IV

PENALTY

This is Cubiotti's second NFA disciplinary action in which he was found to have committed sales fraud. In addition, Cubiotti failed to abide by the taping requirements imposed on him by an NFA Hearing Panel in connection with a prior disciplinary case. Based on Cubiotti's serious misconduct which, in part, involved customer fraud, the Committee hereby permanently bars Cubiotti from NFA membership.

V

APPEAL

Cubiotti may appeal this Decision to the Appeals Committee of NFA by filing a written notice of appeal with NFA's Secretary within fifteen days of the date of this Decision. Pursuant to NFA Compliance Rule 3-13(a), the notice must describe those aspects of the disciplinary action to which exception is taken and must contain any request to present written or oral argument. This Decision shall be final after the expiration of the time for appeal or review, unless it is appealed or reviewed.

VI

INELIGIBILITY

Pursuant to the provisions of Commodity Futures Trading Commission ("CFTC") Regulation 1.63, this Decision and the sanctions imposed herein render Cubiotti permanently ineligible to serve on a disciplinary committee, arbitration panel, oversight panel or governing board of any self-regulatory organization, as that term is defined in CFTC Regulation 1.63.

NATIONAL FUTURES ASSOCIATION
BUSINESS CONDUCT COMMITTEE

Date: 05/07/08

By: _____
Chairperson

/jac(Decisions\Cubiotti Default)

AFFIDAVIT OF SERVICE

I, Nancy Miskovich-Paschen, on oath state that on May 7, 2008, I served copies of the attached Decision, by sending such copies in the United States Mail, postage prepaid, certified mail, return receipt requested, and by regular mail, first-class delivery, in envelopes addressed as follows:

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and by hand delivery to:

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Nancy Miskovich-Paschen

Nancy Miskovich-Paschen

Subscribed and sworn to before me
on this 7th day of May 2008.

Mary A. Patton

Notary Public

OFFICIAL SEAL
Mary A. Patton
Notary Public, State of Illinois
MY COMMISSION EXPIRES 7-17-09