

NATIONAL FUTURES ASSOCIATION  
BEFORE THE HEARING PANEL

MAY 27 2008

NATIONAL FUTURES ASSOCIATION  
LEGAL DOCKETING

In the Matter of: )  
)  
JAGUAR TRADING )  
(NFA ID #374704), )  
)  
and )  
)  
JONATHAN J. BERMAN )  
(NFA ID #250895), )  
)  
Respondents. )

NFA Case No. 07-BCC-050

**DECISION**

Having reviewed the Complaint issued by the Business Conduct Committee ("BCC") of National Futures Association ("NFA") in the above-captioned case, and having considered the Offer of Settlement ("Offer") submitted by Jaguar Trading ("Jaguar"), and Jonathan J. Berman ("Berman"), individually, and having accepted their Offer, the Hearing Panel hereby issues this Decision as to Jaguar and Berman.

I

**ALLEGED VIOLATIONS OF NFA REQUIREMENTS**

On December 20, 2007, the BCC issued a Complaint against Jaguar, an introducing broker ("IB") Member of NFA located in Los Angeles, California. The Complaint also names Berman, as a respondent. Berman is the president, sole principal, and an associated person ("AP") of Jaguar and an NFA Associate.

The Complaint alleged that Jaguar and Berman made misleading sales solicitations to NFA Compliance staff members, posing as a prospective customers,

which exaggerated the profit potential of trading options; downplayed the risk of loss; failed to disclose that the vast majority of Jaguar and Berman's customers lost money, contrary to Berman's rosy profit claims; and 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. The Complaint charged Jaguar and Berman with violations of NFA Compliance Rules 2-2(a) and 2-29(a)(1).

## II

### OFFER OF SETTLEMENT

Without admitting or denying the allegations of the Complaint, Jaguar and Berman submitted an Offer to the Hearing Panel in which they offered to settle the charges against them on the following terms:

1. They stipulated that a Decision issued by the Hearing Panel accepting their Offer shall include findings that they committed the violations alleged against them in the Complaint;
2. They agreed that Jaguar shall be permanently barred from NFA membership and from acting as a principal of an NFA Member, effective as of the date of a Decision accepting their Offer of Settlement;
3. They agreed that Berman shall not apply for NFA membership or associate membership or act as a principal of an NFA Member for a period of one year, commencing on the effective date of a Decision accepting his Offer of Settlement. During the one year membership bar, Berman shall not act in any capacity requiring registration, nor act as a principal of an NFA Member; if after expiration of the one year membership bar, described above, Berman is granted NFA membership or associate membership, then in such event, he shall pay a fine of \$5,000 to NFA, due and payable thirty days after he is granted NFA membership or associate membership;
4. They agree that, in the event that Berman again becomes an NFA Member or Associate, he shall tape record, for six months, all conversations between himself and existing or potential customers; retain such tapes for a period of one year from the date they are

created; and make the tapes available to NFA upon request. The six month taping requirement shall commence on the date that Berman again becomes an NFA Member or Associate and continue thereafter for a period of six months. In calculating the six months taping period, only periods of time when Berman is registered and actively soliciting customers shall be counted in such calculation;

5. They agree that, in the event that Berman becomes a principal of an NFA Member, he shall cause all APs of that firm – and any other firm of which he is a principal – to tape record, for a period of six months, all conversations that occur between them and existing or potential customers; retain these tapes for a period of one year from the date they are created; and make the tapes available to NFA upon request. The six month taping requirement shall apply to each and every firm of which Berman becomes a principal and commence on the date that he becomes a principal of each firm, respectively. In calculating the six month taping period as to each firm, only periods of time when Berman is a principal of that particular firm and that firm is actively soliciting customers shall be counted in such calculation. In any and all events, the taping requirements set forth in this paragraph shall expire on December 31, 2011; and
6. They agree that their Offer of Settlement and any Decision accepting their Offer of Settlement shall be expressly contingent upon the following terms and conditions: (1) the Hearing Panel's acceptance of their Offer of Settlement shall operate to bar any future MRA or BCC Complaints against Jaguar and Berman for any conduct occurring up to the date of their Offer of Settlement, of which NFA had corporate knowledge; (2) the Hearing Panel's acceptance of their Offer of Settlement shall resolve and terminate all complaints, investigations and audits relative to Jaguar and Berman, which are pending as of the date of their Offer of Settlement; and (3) their Offer of Settlement and any Decision accepting their Offer of Settlement shall not be used as a sole basis for any other action or proceeding by NFA against Jaguar and Berman, including any registration matter, except their Offer of Settlement and any Decision accepting their Offer of Settlement may be used in an action to enforce their terms or in a subsequent disciplinary action or regulatory action, where they may be considered as evidence in aggravation.

### III

#### FINDINGS

Pursuant to the Offer, the Panel finds that that Jaguar and Berman violated NFA Compliance Rules 2-2(a) and 2-29(a)(1) by making misleading sales solicitations to NFA Compliance staff members, posing as a prospective customers, which exaggerated the profit potential of trading options; downplayed the risk of loss; failed to disclose that the vast majority of Jaguar and Berman's customers lost money, contrary to Berman's rosy profit claims; and 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.

### IV

#### PENALTY

Having considered the matter and having accepted the Offer submitted by ACE and Columbo, the Hearing Panel orders as follows:

1. Jaguar shall be permanently barred from NFA membership and from acting as a principal of an NFA Member, effective as of the date of this Decision;
2. Berman shall not apply for NFA membership or associate membership or act as a principal of an NFA Member for a period of one year, commencing on the effective date of this Decision. During the one year membership bar, Berman shall not act in any capacity requiring registration, nor act as a principal of an NFA Member; if after expiration of the one year membership bar, described above, Berman is granted NFA membership or associate membership, then in such event, he shall pay a fine of \$5,000 to NFA, due and payable thirty days after he is granted NFA membership or associate membership;
3. In the event that Berman again becomes an NFA Member or Associate, he shall tape record, for six months, all conversations between himself and existing or potential customers; retain such

tapes for a period of one year from the date they are created; and make the tapes available to NFA upon request. The six month taping requirement shall commence on the date that Berman again becomes an NFA Member or Associate and continue thereafter for a period of six months. In calculating the six months taping period, only periods of time when Berman is registered and actively soliciting customers shall be counted in such calculation; and

4. In the event that Berman becomes a principal of an NFA Member, he shall cause all APs of that firm – and any other firm of which he is a principal – to tape record, for a period of six months, all conversations that occur between them and existing or potential customers; retain these tapes for a period of one year from the date they are created; and make the tapes available to NFA upon request. The six month taping requirement shall apply to each and every firm of which Berman becomes a principal and commence on the date that he becomes a principal of each firm, respectively. In calculating the six month taping period as to each firm, only periods of time when Berman is a principal of that particular firm and that firm is actively soliciting customers shall be counted in such calculation. In any and all events, the taping requirements set forth in this paragraph shall expire on December 31, 2011.

The Hearing Panel's acceptance of Jaguar and Berman's Offer of Settlement shall operate to bar any future MRA or BCC Complaints against Jaguar and Berman for any conduct occurring up to the date of their Offer of Settlement, of which NFA had corporate knowledge; and resolve and terminate all complaints, investigations and audits relative to Jaguar and Berman, which were pending as of the date of their Offer of Settlement. In addition, Jaguar and Berman's Offer of Settlement and this Decision shall not be used as a sole basis for any other action or proceeding by NFA against Jaguar and Berman, including any registration matter, except their Offer of Settlement and this Decision may be used in an action to enforce their terms or in a subsequent disciplinary action or regulatory action, where they may be considered as evidence in aggravation.

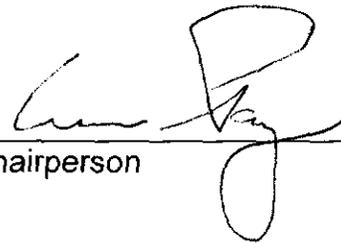
V

**INELIGIBILITY**

Pursuant to the provisions of Commodity Futures Trading Commission ("CFTC") Regulation 1.63, this Decision and the sanctions imposed herein render Berman ineligible, for a period of three years or until all of the sanctions and conditions imposed on him have been fulfilled, whichever is later, 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  
HEARING PANEL**

Date: 05/27/08

By:   
Chairperson

/rvh/Jaguar Trading Decision

**AFFIDAVIT OF SERVICE**

I, Nancy Miskovich-Paschen, on oath state that on May 27, 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, in envelopes addressed as follows:

David Stawick  
Office of the Secretariat  
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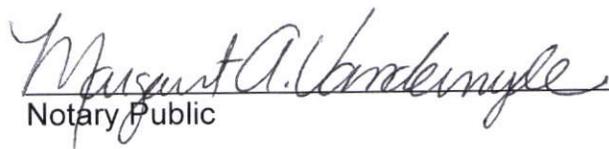
Jonathan J. Berman  
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1115 S. Wooster Street  
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and by hand delivery to:

Ronald V. Hirst, Esq.  
National Futures Association  
300 South Riverside Plaza  
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Chicago, IL 60606

  
Nancy Miskovich-Paschen

Subscribed and sworn to before me  
on this 27th day of May 2008.

  
Notary Public

