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NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

NATIONAL FUTURES ASSOCIATION
BEFORE THE
BUSINESS CONDUCT COMMITTEE

In the Matter of:	)	
	)	
THE MILLER GROUP LLC	)	
(NFA ID #367351),	)	
	)	
and	)	NFA Case No. 08-BCC-020
	)	
FRANCIS PAUL MILLER	)	
(NFA ID #225842),	)	
	)	
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 issues this Complaint against The Miller Group LLC ("The Miller Group") and Francis Paul Miller ("Miller").

ALLEGATIONS

JURISDICTION

1. At all times relevant to this Complaint, The Miller Group was an NFA Member commodity pool operator.
2. At all times relevant to this Complaint, Miller was the sole owner, a registered associated person, and listed principal of The Miller Group and an NFA Associate.

BACKGROUND

3. At all relevant times, The Miller Group operated one pool, The Miller Fund LLC (the "Fund"), which commenced trading in May 2007. The Fund had only two participants – one who made a $50,000 investment in May 2007 and the other who made a $40,000 investment in December 2007. The Miller Group has not returned any funds to either investor subsequent to their initial investment.

4. As alleged below, The Miller Group and Miller failed to cooperate with NFA in that they failed to respond promptly and fully to NFA's requests for information relating to the Fund and payments made to the Fund's participants. In addition, it appears that The Miller Group and Miller engaged in improper activity relating to the Fund and may have misappropriated participant's funds.

APPLICABLE RULES

5. NFA Compliance Rule 2-5 provides, in pertinent part, that each Member and Associate shall cooperate promptly and fully with NFA in any NFA investigation, inquiry, audit, examination or proceeding regarding compliance with NFA requirements or any NFA disciplinary or arbitration proceeding.

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

7. NFA Compliance Rule 2-4 provides that Members or Associates shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of their commodity futures business.

COUNT I

VIOLATION OF NFA COMPLIANCE RULE 2-5: FAILURE TO COOPERATE WITH NFA IN AN NFA AUDIT.

8. The allegations contained in paragraphs 1 through 5 are realleged as paragraph 8.

9. NFA conducted an exam of The Miller Group in February 2008 and found several deficiencies, e.g., non-current books and records (no general ledger, balance sheet, or cash receipt and disbursement journal), no documents to support the Fund's performance, and deficiencies with the firm's disclosure document and website. NFA issued an audit report to The Miller Group citing these deficiencies.

10. The Miller Group failed to respond fully to the deficiencies cited in NFA's audit report and, instead, represented that it planned to liquidate the Fund, withdraw from NFA, and operate offshore.

11. On May 22, 2008, NFA sent an e-mail to Miller requesting him to provide information concerning the liquidation of the Fund, when remaining funds would be returned to the two participants, and the amounts which would be returned to them.

12. In addition, NFA obtained monthly activity statements for the Fund's trading account at Dorman Trading LLC ("Dorman"), which showed that the account ceased trading in March 2008 and that, thereafter, there were multiple transfers of funds from the Dorman account to the Fund's bank account – with the last transfer (in the amount of $14,292) occurring on May 21, 2008, after which there was a zero balance in Dorman account.

13. Between May 28 and June 16, 2008, NFA sent numerous e-mails to Miller and left him numerous phone messages – in addition to visiting his office on June 12 – in an attempt to obtain information from him concerning the Fund's liquidation and the transfers from the Fund's trading account at Dorman to the Fund's bank account. However, Miller refused to provide NFA with such information.

14. Due to Miller's failure to cooperate, NFA contacted the two Fund participants, Timothy Kovacich ("Kovacich") and Douglas Brown ("Brown"). Kovacich informed NFA that he had invested $50,000 with the Fund in May 2007 and that it was his understanding that his balance at the end of March 31, 2008 was $5,785. Brown informed NFA that he had invested $40,000 with the Fund in December 2007 and that, according to the March 31, 2008 statement he received, his balance was approximately $46,700 as of that date. Thus, as of March 31, 2008, Kovacich and Brown believed that the combined value of their investments in the Fund totaled more than $52,000. However, the March 31, 2008 monthly statement for the Fund's trading account at Dorman only showed a balance of approximately $33,500. NFA was unable to determine if there was any money in the Fund's bank account since Miller failed to provide NFA with copies of the Fund's bank statements.

15. Under NFA's Rules, Members and Associates are required to cooperate promptly and fully with NFA in connection with an investigation, audit, examination and other matters regarding compliance with NFA's Requirements. Despite NFA's repeated requests, The Miller Group and Miller have failed to respond promptly and fully to NFA's requests for information relating to the Fund and, otherwise, have failed to cooperate with NFA's examination of their activities.

16. By reason of the foregoing acts and omissions, The Miller Group and Miller are charged with violations of NFA Compliance Rule 2-5.

COUNT II

VIOLATION OF NFA COMPLIANCE RULES 2-2(a) AND 2-4: MISAPPROPRIATING FUNDS BELONGING TO FUND PARTICIPANTS.

17. The allegations contained in paragraphs 1 through 4, 6 and 7 are realleged as paragraph 17.

18. After The Miller Group and Miller liquidated the Fund's trading account at Dorman and transferred the funds to the Fund's bank account, it is uncertain what then became of the funds, as Miller has failed to produce the Fund's bank records to NFA.

19. As of this date, neither Kovacich nor Brown has received any funds from The Miller Group or Miller, even though Miller informed Brown that he would receive a check for his remaining interest in the Fund on or before July 15, 2008.

20. On May 26, 2008, Miller reactivated a dormant personal account at Saxo Bank A/S ("Saxo"), a non-NFA Member forex firm, by making a $12,000 deposit to this account. This deposit occurred only five days after the final transfer of approximately $14,000 was made from the Fund's account at Dorman. Subsequently, Miller has withdrawn over half of the money in his Saxo account.

21. It appears from the foregoing circumstances that Miller has misappropriated pool funds by retaining and not returning them to the Fund participants – and may also have converted them to his own use.

22. By reason of the foregoing acts and omissions, The Miller Group and Miller are charged with violations of NFA Compliance Rules 2-2(a) and 2-4.

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

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

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 ("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.

NATIONAL FUTURES ASSOCIATION
BUSINESS CONDUCT COMMITTEE

Dated: 8-18-08

By: _____
Chairperson

/jac(Complaints\Miller Group_Miller)

AFFIDAVIT OF SERVICE

I, Nancy Miskovich-Paschen, on oath state that on August 18, 2008, 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:

The Miller Group LLC
200 NE 22nd Avenue
Pompano Beach, FL 33062
Attn: Frank Miller

Nancy Miskovich Paschen
Nancy Miskovich-Paschen

Subscribed and sworn to before me
on this 18th day of August 2008.

Margaret A. Vandermyde
Notary Public

OFFICIAL SEAL
Margaret A. Vandermyde
Notary Public, State of Illinois
MY COMMISSION EXPIRES 03-15-10