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NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

NATIONAL FUTURES ASSOCIATION
BEFORE THE HEARING PANEL

In the Matter of:	)	
	)	
FIRST CHOICE FUTURES AND OPTIONS, INC., ET AL. (NFA ID #307428), (Mark D. Ashton, NFA ID #365524),	)	NFA Case No. 08-BCC-013
	)	
Respondent.	)	

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 Mark D. Ashton ("Ashton "), and having accepted his Offer, the Hearing Panel hereby issues this Decision as to Ashton.

I

ALLEGED VIOLATIONS OF NFA REQUIREMENTS

On June 30, 2008, the BCC issued a Complaint against First Choice Futures and Options, Inc. ("First Choice"), a former introducing broker Member of NFA located in North Miami, Florida. In addition to First Choice, the Complaint also named several of First Choice's associated persons ("APs"), including Ashton.

The Complaint charged Ashton with violating NFA Compliance Rules 2-2(a) and 2-29(a)(1) for making a misleading and deceptive sales solicitation to an NFA Compliance staff member, posing as a prospective customer.

II

OFFER OF SETTLEMENT

Without admitting or denying the allegations of the Complaint, Ashton submitted an Offer to the Hearing Panel in which he agreed as follows:

1. He shall withdraw from NFA associate membership, effective on the date of a Decision accepting his Offer and not apply for NFA membership or associate membership or act as a principal of an NFA Member for a period of three months.

2. If after expiration of the three-month period described above, he is granted NFA membership or associate membership, or becomes a principal of an NFA Member, then in any 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, or becomes a principal of an NFA Member.

3. If and when he again becomes an NFA Member or Associate, he shall tape record, for a period of one year, all conversations between him 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 one-year taping requirement shall commence on the date that he again becomes an NFA Member or Associate, and continue thereafter for a period of one year. However, for purposes of calculating the end date for the one-year taping requirement, only periods of time when he is registered and actively soliciting customers on a full-time basis shall be counted. In other words, although he is required to tape even during periods when he is only soliciting customers on a part-time basis — any taping done during these periods shall not be counted or credited to him in calculating his one-year taping obligation.

As part of his Offer, Ashton also consented to findings that he committed the violations alleged in the Complaint.

III

FINDINGS

Pursuant to the Offer submitted by Ashton, the Panel finds that Ashton violated NFA Compliance Rules 2-2(a) and 2-29(a)(1) by making misleading and deceptive sales solicitations to an NFA Compliance staff member, posing as a

prospective customer, which exaggerated the profit potential of trading options, and downplayed the substantial risk of loss.

IV

PENALTY

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

1. Ashton shall be deemed withdrawn from NFA associate membership, effective on the date of this Decision, and shall not apply for NFA membership or associate membership or act as a principal of an NFA Member for a period of three months.

2. If after expiration of the three-month period described above, Ashton is granted NFA membership or associate membership, or becomes a principal of an NFA Member, then in any 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, or becomes a principal of an NFA Member.

3. If and when Ashton again becomes an NFA Member or Associate, he shall tape record, for a period of one year, all conversations between him 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 one-year taping requirement shall commence on the date that he again becomes an NFA Member or Associate, and continue thereafter for a period of one year. However, for purposes of calculating the end date for the one-year taping requirement, only periods of time when he is registered and actively soliciting customers on a full-time basis shall be counted. In other words, although he is required to tape even during periods when he is only soliciting customers on a part-time basis — any taping done during these periods shall not be counted or credited to him in calculating his one-year taping obligation.

This Decision accepting Ashton's Offer shall operate to bar any future Member Responsibility Action or BCC Complaints against Ashton for any conduct occurring, of which NFA had corporate knowledge, up to the date of his Offer; and shall resolve and terminate all complaints, investigations and audits, relative to him, which were received or pending as of the date of his Offer. In addition, Ashton's Offer and this

Decision shall not be used as a sole basis for any other action or proceeding by NFA against him, including any registration matter, except his Offer 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 disciplinary history and as evidence in aggravation on the issue of sanctions.

V

INELIGIBILITY

Pursuant to the provisions of Commodity Futures Trading Commission ("CFTC") Regulation 1.63, this Decision and the sanctions imposed herein render Ashton 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: 02-05-09

By: _____
Chairperson

m/rvh/First Choice (Ashton Decision, revised)

AFFIDAVIT OF SERVICE

I, Nancy Miskovich-Paschen, on oath state that on February 5, 2009, 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:

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Nancy Miskovich-Paschen

Nancy Miskovich-Paschen

Subscribed and sworn to before me
on this 5th day of February 2009.

Mary A. Patton

Notary Public

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