

NATIONAL FUTURES ASSOCIATION  
BEFORE THE  
BUSINESS CONDUCT COMMITTEE

In the Matter of: )  
)  
PIONEER COMMODITIES LLC )  
(NFA ID #363167), )  
)  
and ) NFA Case No. 09-BCC-003  
)  
ANTHONY S. BOBBA )  
(NFA ID #340915), )  
)  
Respondents. )

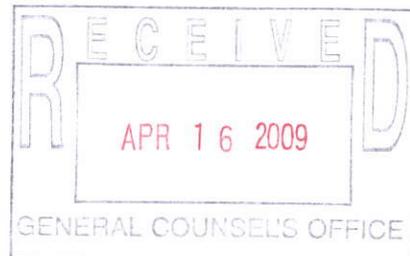
ANSWER OF RESPONDENTS

Respondents Pioneer Commodities LLC ("Pioneer") and Anthony S. Bobba ("Bobba"), by counsel and pursuant to the Rules of the National Futures Association ("NFA"), hereby file their Answer to the NFA's Business Conduct Committee Complaint filed against them.

JURISDICTION

1. At all times relevant to this Complaint, Pioneer was an introducing broker ("IB") NFA Member located in Boca Raton, Florida. From April 2007 until October 2008, Pioneer was guaranteed by Peregrine Financial Group, Inc.

ANSWER: Admitted.



2. At all times relevant to this Complaint, Bobba was the chief executive officer and an associated person ("AP") of Pioneer, and an NFA Associate. Bobba also has a 10% or more ownership interest in Pioneer.

**ANSWER:** Admitted.

### BACKGROUND

3. NFA received information that Pioneer and Bobba had made an unusually large number of requests to the testing service that administers the Series 3 Examination requesting additional time for Pioneer's prospective APs to complete the exam based on representations by Pioneer and Bobba that English was not the primary language of these prospective APs. NFA commenced an investigation to determine if these requests of Pioneer and Bobba to the testing service were legitimate and determined that many of them were not and were, in fact, fraudulent in that English was, in fact, the primary language of the prospective APs for whom the requests for extra time were made.

**ANSWER:** Pioneer and Bobba lack information sufficient to admit or deny allegations regarding information received by NFA. Pioneer and Bobba lack information sufficient to admit or deny allegations regarding any investigation commenced and/or conducted by NFA, and/or regarding any results thereof. Pioneer and Bobba admit, on information and belief, that certain prospective APs of Pioneer requested additional time to complete the Series 3 examination because English was not their first language, and that Pioneer and/or Bobba signed off on such requests. Pioneer and Bobba deny

that any requests of Pioneer and/or Bobba to the testing service were not legitimate and/or were fraudulent, and state that, at the time the requests were signed off on, Pioneer and Bobba lacked information regarding the primary language of the prospective APs other than representations made by the prospective APs to Respondents.

4. NFA's investigation also revealed that Pioneer and Bobba made absolutely no effort to investigate their prospective APs claims that English was not their primary language, and simply accepted such claims at face value, without making any further inquiry. Moreover, Pioneer and Bobba prepared, signed, and submitted to the testing service, written requests for extra time which expressly represented that English was not the prospective APs' primary language, when they knew they lacked sufficient knowledge of the facts to make such a representation in good faith. Pioneer and Bobba's conduct was either intentionally deceptive or revealed a reckless indifference on their part to the veracity of the representations they made to the testing service.

**ANSWER:** Pioneer and Bobba lack information sufficient to admit or deny allegations regarding the findings of NFA investigation. Pioneer and Bobba deny that they made absolutely no effort to investigate the claims of its prospective APs. Pioneer and Bobba admit that they accepted the representations of the prospective APs. Pioneer and Bobba deny that they "prepared, signed, and submitted to the testing service, written requests

for extra time which expressly represented that English was not the prospective APs' primary language, when they knew they lacked sufficient knowledge of the facts to make such a representation in good faith."

#### APPLICABLE RULES

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

**ANSWER:** Pioneer and Bobba admit that NFA Compliance Rule 2-4 has been properly characterized here, but deny that they have violated such Rule.

6. NFA Compliance Rule 2-9 provides, in pertinent part, that each Member shall diligently supervise its employees and agents in the conduct of their commodity futures activities for or on behalf of the Member. Each Associate who has supervisory duties shall diligently exercise such duties in the conduct of that Associate's commodity futures activities on behalf of the Member.

**ANSWER:** Pioneer and Bobba admit that NFA Compliance Rule 2-9 has been properly characterized here, but deny that they have violated such Rule.

COUNT 1

**VIOLATION OF NFA COMPLIANCE RULES 2-4 AND 2-9; ACTING WITH RECKLESS INDIFFERENCE AND FAILING TO ADEQUATELY SUPERVISE**

7. The allegations contained in paragraphs 1 through 6 are realleged as paragraph 7

**ANSWER:** Pioneer and Bobba reallege their responses to paragraphs 1 through 6 as if set forth in full here.

8. After becoming registered as an IB in late 2005 and continuing until at least May 2006, Pioneer made written requests for 55 prospective APs requesting Prometric testing service to allow these 55 APs additional time to complete the Series 3 Examination based on representations that English was not the prospective APs' primary language. For some of these prospective APs (viz., those who took the Series 3 Exam multiple times before passing it), Pioneer made multiple requests seeking extra time on the ground that English was not their primary language.

These requests were on Pioneer's stationery and most were signed by Bobba.

**ANSWER:** Pioneer and Bobba admit that they signed off on requests made by certain prospective APs of Pioneer, asking that Prometric testing service to allow them additional time to complete the Series 3 Examination, and that Pioneer and Bobba did so based on representations that English was not the prospective APs' first language, and that certain of these prospective APs may have made such requests multiple times.

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Pioneer and Bobba deny that the requests for extra time, which were prepared by the prospective APs, were on Pioneer's stationery and most were signed by Bobba. Any other allegations in this paragraph are hereby denied.

9. Pioneer and Bobba have admitted that English was, in fact, the primary language of a number of its APs who requested an additional hour to complete the Series 3 Examination and that the representations of these APs that English was not their primary language were false.

**ANSWER:** Pioneer and Bobba deny that they have "admitted that English was, in fact, the primary language of a number of its APs who requested an additional hour to complete the Series 3 Examination and that the representations of these APs that English was not their primary language were false." Pioneer and Bobba acknowledge that, since the original requests were made, they may have discovered that English was the primary language of a number of the APs who requested an additional hour, and that certain representations made were incorrect. Any other allegations are denied.

10. Pioneer and Bobba have claimed that the instructor they hired to teach the Series 3 review course to Pioneer's prospective APs - an individual named Rocky Dacillo, who was an AP of Pioneer from July 3 until October 12, 2006 - had recommended to the prospective APs that they represent to the Series 3 testing service that English was not their primary language and request additional time

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to take the exam, “without regard to the propriety” of such request and “without regard to whether English was their primary language.”

**ANSWER:** Pioneer and Bobba admit that they have informed NFA that the instructor they hired to teach the Series 3 review course to Pioneer’s prospective APs was named Rocky Dacillo; that Dacillo was an AP of Pioneer from July 3 until October 12, 2006; that Dacillo had recommended to the prospective APs that they represent to the Series 3 testing service that English was not their first language and request additional time to take the exam, “without regard to the propriety” of such request and “without regard to whether English was their primary language.” Any other allegations in this paragraph are denied.

11. Pioneer and Bobba have admitted that they “signed off” on the requests for extra time and misrepresented to the testing service that the prospective APs’ primary language was not English, but claim that they did so based upon the representations of these prospective APs that English was not their primary language.

**ANSWER:** Respondents admit that they signed off on the requests for extra time. Respondents deny that they misrepresented anything to the testing service. Respondents admit that the requests were signed off on based upon the representations of these prospective APs.

12. Had Pioneer and Bobba been the least bit diligent, they could have easily determined that English was, in fact, the primary language of many of the prospective APs for whom they made fraudulent representations to the Series 3 testing service.

**ANSWER:** Pioneer and Bobba deny that they did not exercise appropriate diligence with respect to the above-referenced facts and circumstances. Pioneer and Bobba deny that they made any fraudulent representations. Any other allegations in this paragraph are denied.

13. In the first place, Pioneer and Bobba should have found it highly suspicious that almost 70% of all the APs they hired, who had to take the Series 3 Exam, claimed that English was not their primary language. (Since becoming an IB in late 2005, Pioneer has employed 79 APs, who were required to take the Series 3 Exam, and of these 79 APs, Pioneer and Bobba claim that 55 of them had represented that English was not their primary language. These numbers alone should have caused Pioneer and Bobba to make further inquiry.

**ANSWER:** Pioneer and Bobba admit that, since Pioneer became an IB in late 2005, it has employed APs who were required to take the Series 3 Exam, certain of whom have represented that English was not their first language. Pioneer and Bobba deny that they should have found this highly suspicious, and deny that these facts should have caused them to make further inquiry. Any other allegations in this paragraph are denied.

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14. Moreover, had Pioneer and Bobba looked at the backgrounds of many of the prospective APs, they would have found that they were born in the United States, lived their entire lives in the United States, and were educated exclusively in American schools. These circumstances should have caused Pioneer and Bobba to at least talk to the prospective APs about their primary language. If they had done so it is likely they would have found that many of the prospective APs spoke fluent English and, yet, either were unable to speak a foreign language or were not as fluent in the foreign language as they were in English.

**ANSWER:** Pioneer and Bobba deny that they were under any duty to undertake any of the above-referenced inquiries and investigations, and accordingly deny the allegations of this paragraph.

15. It is also likely that if Pioneer and Bobba had questioned the prospective APs, many of them would have admitted that English was, in fact, their primary language - just as they did when Pioneer conducted an internal investigation after NFA initiated its inquiry. Indeed, the fact that Pioneer was able to uncover the fraud when it conducted its internal investigation shows that had Pioneer and Bobba exercised due diligence in the first place they would have discovered the fraud then.

**ANSWER:** Pioneer and Bobba deny that they were under any duty to undertake any of the above-referenced inquiries and investigations, and accordingly deny the allegations of this paragraph. Pioneer and Bobba state further that the circumstances surrounding the NFA investigation described herein were significantly different than the circumstances surrounding the original request for an extra hour to complete the Series 3 examination, and deny that the fact that the findings of their internal investigation suggests that they acted inappropriately in the first instance. Pioneer and Bobba deny that they did not exercise due diligence in the first place, and deny that a fraud occurred at that time.

16. The facts alleged above demonstrate that Pioneer and Bobba failed to adequately supervise the Series 3 training they provided to their prospective APs and the personnel that provided such training, and also acted with reckless indifference to the truth when they represented to the Series 3 testing service that English was not the primary language of their prospective APs.

**ANSWER:** Denied.

17. By reason of the foregoing acts and omissions, Pioneer and Bobba are charged with violations of NFA Compliance Rules 2-4 and 2-9.

**ANSWER:** Pioneer and Bobba deny that they have violated NFA Compliance Rules Rule 2-4 and 2-9.

Any allegation not specifically admitted herein is hereby denied.

WHEREFORE, Pioneer Commodities LLC and Anthony S. Bobba respectfully request that the Complaint against them be dismissed in its entirety.

Dated April 15, 2009

Respectfully submitted,

Pioneer Commodities LLC  
and  
Anthony S. Bobba

By:

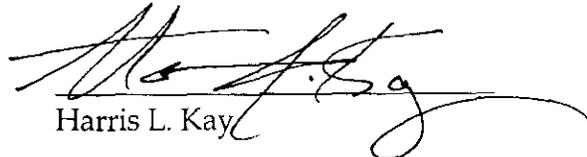
  
One of Their Attorneys

Harris L. Kay  
Jeffrey M. Henderson  
HENDERSON & LYMAN  
175 West Jackson Boulevard, Suite 240  
Chicago, Illinois 60604  
312-986-6960

CERTIFICATE OF SERVICE

I, Harris L. Kay, certify that on April 15, 2009, I caused to be served via email and United States mail the attached Respondents' Answer upon:

National Futures Association  
300 South Riverside Plaza  
Suite 1800  
Chicago, Illinois 60606  
Attn: Legal Department - Docketing  
[docketing@nfa.futures.org](mailto:docketing@nfa.futures.org)

  
Harris L. Kay