

NATIONAL FUTURES ASSOCIATION
BEFORE THE
BUSINESS CONDUCT COMMITTEE

NOV 17 2009

NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

In the Matter of:)	
)	
CARLO SCEVOLA)	NFA Case No. 09-BCC-043
(NFA ID #338478),)	
)	
Respondent.)	

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 ("BCC") issues this Complaint against Carlo Scevola ("Scevola").

ALLEGATIONS

JURISDICTION

1. At all times relevant to this Complaint, Scevola was a sole proprietor commodity trading advisor ("CTA") NFA Member located in London, England.

BACKGROUND

2. Scevola became registered as a CTA NFA Member in 2004. In NFA's registration system, Scevola lists several other trade names used by his CTA, including Carlo Scevola & Partners.
3. As alleged herein, Scevola touted his NFA membership when soliciting customers on his website, yet refused to meet his obligation as an NFA Member to provide information to NFA about his operations.

4. NFA sought records and information from Scevola about two pools that he operates after learning that a director of one of these pools was an individual who had previously been affiliated with a company that operated a huge international ponzi scheme; and that Scevola had provided a prospective investor in one of these pools with information concerning the amount of the pool's assets that was dramatically different from the amount Scevola had reported to regulators.
5. NFA also sought records relating to Scevola's pools so it could test the dramatic performance claims that Scevola advertised for these pools and also determine if all of the participants in these pools were foreign citizens, as claimed by Scevola, or if any were U.S. citizens.
6. Scevola has refused to provide NFA with all of the records and information NFA has requested about his operations and also appears to have provided false information to NFA concerning the activities of one of his pools. As a consequence, NFA has been unable to verify Scevola's performance claims, the amount of his pools' assets, or the identity and citizenship of his pools' participants.

APPLICABLE RULES

7. NFA Compliance Rule 2-5 provides 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. Each Member and Associate shall comply with any order issued by the Executive Committee, the Membership

Committee, the BCC, the Appeals Committee or any NFA hearing or arbitration panel.

8. NFA Compliance Rule 2-39(a) provides, in pertinent part, that except for Members who meet the criteria in Bylaw 306(b) and Associates acting on their behalf, Members and Associates who solicit customers, introduce customers to a counterparty, or manage accounts on behalf of customers in connection with forex transactions shall comply with Compliance Rules 2-36(b) and (c).
9. NFA Compliance Rule 2-36(b)(1) provides that no Forex Dealer Member ("FDM") or Associate of an FDM engaging in any forex transaction shall cheat, defraud or deceived, or attempt to cheat, defraud or deceive any other person.
10. NFA Compliance Rule 2-36(b)(5) provides that no FDM or Associate of an FDM engaging in any forex transaction shall willfully submit materially false or misleading information to NFA or its agents with respect to forex transactions.
11. NFA Compliance Rule 2-36(c) provides that FDMs and their Associates shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of their forex business.

COUNT I

VIOLATION OF NFA COMPLIANCE RULES 2-5, 2-36(b)(1) AND (5), AND 2-36(c): FAILING TO COOPERATE WITH NFA IN ITS INQUIRY OF SCEVOLA'S OPERATIONS AND HIS PERFORMANCE CLAIMS; REPRESENTING TO A PARTICIPANT IN RESOLUTE CAPITAL THAT RESOLUTE CAPITAL HAD LOST ALL OF ITS MONEY DUE TO A DEFAULTING BROKER WHEN, IN FACT, MOST OF ITS LOSSES WERE DUE TO TRADING LOSSES; AND PROVIDING FALSE AND MISLEADING INFORMATION TO NFA.

12. The allegations contained in paragraphs 1 through 11 are realleged as paragraph 12.

13. NFA received information that Scevola was operating a pool called Resolute Capital Growth Fund Ltd. ("Resolute Capital"), and that Laurence M. Rosenberg – a former principal of Lake Shore Asset Management Limited ("Lake Shore") – was affiliated with this venture.
14. NFA permanently barred Lake Shore from NFA membership; a federal court in Chicago permanently banned Lake Shore, and its managing director, Phillip Baker ("Baker"), from trading commodity futures based upon their misappropriation of more than \$11 million from participants in pools operated by Lake Shore; and a federal grand jury in Chicago indicted Baker for his role in the misappropriation of pool participants' funds.
15. Based on the information that a former Lake Shore principal – Laurence Rosenberg – was affiliated with Scevola and Resolute Capital, NFA commenced an inquiry into their operations. As part of this inquiry, NFA reviewed the websites of Scevola and Resolute Capital.
16. Scevola's website – which he maintained under the trade name "Carlo Scevola & Partners" – stated that his firm was headquartered in New York City, that its president and chief executive officer ("CEO") was Carlo Scevola, and that it maintained offices in Bradenton, Florida and in several foreign cities. The website included NFA's logo and the statement that "Carlo Scevola & Partners is a licensed Commodity Trading Advisor (CTA) member of National Futures Association (NFA) registered with the Commodity Futures Trading Commission (CFTC)."

17. The website of Resolute Capital represented that Resolute Capital was an investment fund registered with the British Virgin Islands; that its Chairman was Laurence Rosenberg; and that its President and CEO was Carlo Scevola, who was described as "a Commodity Trading Advisor member of National Futures Association, registered with the Commodity Futures Trading Commission." The website also included performance information for Resolute Capital from 2004 to 2008 that showed yearly returns of 15% to over 38%.
18. The official records of the British Virgin Islands Financial Services Commission show that Resolute Capital was a registered company in the British Virgin Islands; that it reported assets of \$13.9 million, as of the end of February 2008; and that it listed Carlo Scevola and Laurence Rosenberg as its Directors, and Carlo Scevola & Partners (CS&P), Ltd. as its Manager.
19. The assets which Resolute Capital reported to the British Virgin Islands Financial Services Commission – i.e., \$13.9 million as of the end of February 2008 – did not correspond with information that NFA received from an investor in Spain, who represented to NFA that, in February 2008, Scevola told him that Resolute Capital had \$110 million under management – which is a fraction of the assets that Resolute Capital reported to the British Virgin Islands Financial Services Commission.
20. In January 2009, NFA was contacted by an individual from the Netherlands who told NFA that he was a participant in Resolute Capital. According to this individual, he had received a letter from Resolute Capital informing him that Resolute Capital had lost all of its money and was closing down due to a third

party broker defaulting on its obligations. The letter did not disclose the name of the defaulting broker, but indicated that a partial compensation plan had been negotiated with the defaulting broker which would result in Resolute Capital receiving monthly payments from the defaulting broker, beginning in January 2009.

21. However, in February 2009, Resolute Capital informed participants that authorities were investigating the defaulting broker, and, therefore, the defaulting broker would not be making monthly payments to Resolute Capital after all. The letter also indicated that NFA was fully informed and closely monitoring the situation – which was untrue.
22. NFA subsequently learned that Crown Forex SA ("Crown Forex") – a Swiss firm where Resolute Capital maintained an account – had apparently experienced a financial failure. However, NFA determined that Crown Forex's financial failure was not the cause of the bulk of the losses sustained by Resolute Capital. *Instead, most of Resolute Capital's losses were attributable to trading losses of approximately \$20 million it sustained in its account at Oanda Corporation ("Oanda"), a futures commission merchant ("FCM") NFA Member in Canada.* According to the investor from the Netherlands, who was a participant in Resolute Capital, Scevola never disclosed to him Resolute Capital's trading losses at Oanda.
23. Several months later, the investor from the Netherlands contacted NFA again, this time to report that he had received an e-mail from Scevola announcing a new fund called the "Leader Fund," that was open to new investors with a minimum

subscription of \$100,000. The e-mail included, as attachments, a fact sheet for the Leader Fund and annual portfolio performance for the Leader Fund from 2004 through 2008.

24. Based on the foregoing information, NFA sent a letter to Scevola requesting a list of Resolute Capital participants, subscription amounts, the net asset value for each participant as of September 30, 2008, and May 31, 2009, contact information for participants, and bank statements for Resolute Capital's bank accounts from January 1 to December 31, 2008. NFA also sought information about the Leader Fund.
25. On June 3, 2009, Scevola's attorney sent a letter in response to NFA's letter in which he acknowledged that Scevola was a Director of Resolute Capital but claimed that, despite being a Director, Scevola did not have access to Resolute Capital's records and, therefore, could not produce these records to NFA.
26. However, the veracity of Scevola's claim that he did not have access to Resolute Capital's records is undermined by the following circumstances: 1) a year earlier, in July 2008, Scevola did not claim that he did not have access to Resolute Capital's records and, in fact, provided NFA with certain records of Resolute Capital; 2) Resolute Capital's website listed Scevola as not only a Director of Resolute Capital but also as its President and CEO; 3) the official records of the British Virgin Islands Financial Services Commission listed Carlo Scevola & Partners, Ltd. as the Manager of Resolute Capital; 4) the offering memorandum for Resolute Capital stated that its Directors were responsible for the overall management and control of Resolute Capital; and 5) Resolute Capital's website

stated that Scevola, as CEO of Resolute Capital, was "responsible for the Fund's overall vision, corporate strategy and operations."

27. Scevola's attorney also represented in his June 3, 2009 letter to NFA that the Leader Fund was inactive and had not traded or solicited participants. However, this representation was contradicted by the e-mail Scevola sent to the investor from the Netherlands which announced that the Leader Fund was open to new investments with a minimum subscription of \$100,000, and included a fact sheet and performance information for the Leader Fund. In addition, the Barclay's Managed Funds Report for June 2009 listed the Leader Fund as having \$10 million under management and a profitable trading record over the past five years.
28. Subsequently, NFA sent Scevola's attorney another letter in which NFA reiterated its request that Scevola produce the records of Resolute Capital that NFA had previously requested. NFA also advised Scevola's attorney that NFA regarded Scevola's failure to produce such records as a violation of his obligation under NFA Compliance Rule 2-5, "to cooperate promptly and fully with NFA in any NFA investigation, inquiry, audit, examination or proceeding regarding compliance with NFA requirements ..."
29. NFA further advised Scevola's attorney that – contrary to his representation that the Leader Fund has not solicited participants and has not engaged in trading – NFA had received information from an individual that Scevola had sent him correspondence in April 2009 which announced that the Leader Fund was open to new investments, with a minimum subscription of \$100,000.

30. In addition, NFA advised Scevola's attorney that Barclay's Managed Funds Report for June 2009 listed the Leader Fund as having \$10 million under management and a profitable trading record over the previous five years. Finally, NFA warned Scevola's attorney that Scevola could face disciplinary action for failing to cooperate with NFA and providing it with false and misleading information.
31. To date, Scevola has failed to produce to NFA the records of Resolute Capital which NFA has requested. Moreover, in representing to NFA that the Leader Fund was not soliciting participants, Scevola provided false and misleading information to NFA. Scevola also provided false and misleading information to the investor from the Netherlands when he told that investor that Resolute Capital had lost all of its money due to the collapse of Crown Forex when, in fact, the bulk of its losses were due to trading losses at Oanda.
32. By reason of the foregoing acts and omissions, Scevola is charged with violations of NFA Compliance Rules 2-5, 2-36(b)(1) and (5), and 2-36(c).

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
300 South Riverside Plaza
Suite 1800
Chicago, Illinois 60606
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.

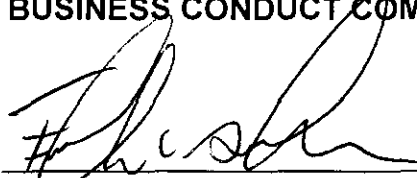
The allegations in this Complaint may constitute a statutory disqualification from registration under Section 8a(3)(M) of the Commodity Exchange Act. Respondents in this matter who apply for registration in any new capacity, including as an

associated person with a new sponsor, may be denied registration based on the pendency of this proceeding.

Pursuant to the provisions of 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: 11-17-09

By: 
Chairperson

/jac(Complaints\Scevola)

AFFIDAVIT OF SERVICE

I, Nancy Miskovich-Paschen, on oath state that on November 17, 2009, I served copies of the attached Complaint, by sending such copies by regular mail, first-class delivery, and by overnight mail, in envelopes addressed as follows to:

Carlo Scevola
27 Old Gloucester Street
London WC1N 3XX
United Kingdom



Nancy Miskovich-Paschen

Subscribed and sworn to before me
on this 17th day of November 2009.



Notary Public

