

FILED

NOV 17 2009

**NATIONAL FUTURES ASSOCIATION
BEFORE THE
BUSINESS CONDUCT COMMITTEE**

**NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING**

In the Matter of:)
)
ACJ CAPITAL, INC.)
(NFA ID #335629),)
)
and) NFA Case No. 09-BCC-044
)
ANGEL FERNANDO COLLAZO)
(NFA ID #292355),)
)
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 ("BCC") issues this Complaint against ACJ Capital, Inc. ("ACJ") and Angel Fernando Collazo ("Collazo").

ALLEGATIONS

JURISDICTION

1. At all times relevant to this Complaint, ACJ was a commodity trading advisor ("CTA") NFA Member located in San Juan, Puerto Rico.
2. At all times relevant to this Complaint, Collazo was the sole principal and an associated person ("AP") of ACJ, and an NFA Associate.

BACKGROUND

1. Collazo was previously an AP at a number of firms disciplined for sales practice fraud, including First International Commodity Group, Inc., Investor One Financial Corp., and FSG International Incorporated.
2. ACJ and Collazo were named as respondents in an NFA arbitration case in which they were charged with making a misleading and high-pressured sales solicitation to the claimant/ customer. After a hearing, the claimant received an award of approximately \$38,500, which ACJ and Collazo have failed to pay.
3. ACJ solicited forex accounts on behalf of IKON Global Markets, Inc. ("IKON"), a Forex Dealer Member ("FDM") of NFA, and traded those accounts pursuant to a power of attorney ("POA"). ACJ managed a total of 23 customer accounts, which had deposits totaling almost \$3.5 million, trading losses totaling almost \$2.9 million, and commissions totaling over \$1 million.
4. In December 29, 2008, NFA received complaints from ACJ customers Mary Griffen ("Griffen") and Maria Calimano ("Calimano") who alleged that ACJ and Collazo had mishandled their accounts and misled them as to the performance of their accounts. Griffen and Calimano complained that virtually all the equity in their accounts disappeared in one day, and that they were unable to get *satisfactory answers from ACJ or IKON regarding the reason for the dramatic and precipitous decrease in the value of their accounts.*
5. Based on Griffen's and Calimano's complaints, NFA commenced an investigation of ACJ and Collazo. During the course of NFA's investigation, NFA attempted to contact Collazo on several occasions, using phone numbers and e-mail

addresses that Collazo had listed with NFA. However, Collazo – who has not been an NFA Associate since January 2009 – failed to respond to NFA.

6. As hereafter alleged, NFA investigation revealed that ACJ and Collazo tried to conceal large trading losses from customers by giving them false information about the performance of their accounts and providing them with fictitious account statements that showed significant equity in their accounts when, in fact, most, if not all, of their equity had been lost.

APPLICABLE RULES

7. 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).
8. NFA Compliance Rule 2-36(b)(1) provides that no FDM or Associate of an FDM engaging in any forex transaction shall cheat, defraud or deceive, or attempt to cheat, defraud or deceive any other person.
9. NFA Compliance Rule 2-36(b)(2) provides that no FDM or Associate of an FDM engaging in any forex transaction shall willfully make or cause to be made a false report, or willfully to enter or cause to be entered a false record in or in connection with any forex transaction.
10. 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 2-36(b)(1) AND (2) AND 2-36(c): PROVIDING FALSE INFORMATION TO CUSTOMERS ABOUT THE PERFORMANCE OF THEIR ACCOUNTS; PROVIDING CUSTOMERS WITH FICTITIOUS ACCOUNT STATEMENTS THAT SHOWED SIGNIFICANT EQUITY IN THEIR ACCOUNTS WHEN, IN FACT, MOST, IF NOT ALL, OF THEIR EQUITY HAD BEEN LOST; AND FAILING TO OBSERVE HIGH STANDARDS OF COMMERCIAL HONOR AND JUST AND EQUITABLE PRINCIPLES OF TRADE.

11. The allegations contained in paragraphs 1 through 10 are realleged as paragraph 11.
12. Griffen opened an account through ACJ in August 2008. While soliciting Griffen to open an account, Collazo described his trading program to Griffen as having a "built-in fail safe" which would keep her account from losing large sums of money.
13. Griffen initially deposited \$50,000 in her account. She accessed her account statements on-line through IKON's website. Although Griffen saw negative balances on her IKON account statements, Collazo told her that her account was performing well and that she should only look at the ending balance on her account statements.
14. NFA reviewed IKON account statements for Griffen and ACJ's other customers, and noted that the "ending balance" value shown on these statements did not take into account unrealized losses. NFA's analysis of the trading in ACJ's customers' accounts revealed that Collazo routinely liquidated profitable trades so as to realize gains, but rolled over losing trades so they would be reflected as unrealized losses. This resulted in an increase in the ending balance on the customers' statements, while unrealized losses continued to grow.

15. At the end of October 2008, Collazo informed Griffen that she needed to add more funds to her account in order to "close out some positions," but Collazo assured Griffen that "all was well" with her account. Based on Collazo's request, Griffen deposited an additional \$15,000 into her account.
16. In November 2008, Griffen accessed her IKON account statement on-line and noted that the unrealized profit and loss balance on her November 2008 account statement was \$0, whereas previously the unrealized profit and loss balance had been hovering around negative \$100,000. Griffen also noted that the ending balance on her account statement had gone from approximately \$103,000 to less than \$2,000.
17. Griffen subsequently received a November 2008 account statement via e-mail from Collazo, and that statement showed that Griffen's ending balance was still about \$103,000 and that her unrealized profit and loss balance was approximately negative \$100,000.
18. Griffen attempted to contact Collazo to inquire about the discrepancies in the balances shown on her November account statement, which she accessed on-line on IKON's website and the one Collazo had e-mailed her, but she was unable to contact Collazo.
19. Calimano opened a discretionary trading account through ACJ in February 2008 in which she deposited a total of \$300,000. Calimano reviewed her account statements on-line on IKON's website and noticed negative balances in her account. Calimano asked Collazo about these negative balances and he told her

that her account was performing well and that the negative profit and loss balances were nothing to be concerned about.

20. In mid-November 2008, Calimano accessed her account statement on IKON's website and noticed that her account had gone from an ending balance of over \$500,000 to an ending balance of negative \$2,000 overnight. Calimano contacted Collazo, and Collazo told Calimano that IKON had updated its website and that "something must have gone wrong" as a result of this update. After this conversation Collazo sent Calimano statements for her account, which were purportedly from IKON, that reflected that her account balance was still approximately \$500,000.
21. A few days later, Calimano spoke with personnel at IKON, who told her that her statements on IKON's website were correct. Calimano reported this to Collazo who said that he would "look into the issue" and get back to Calimano, but he never did.
22. Robert Hatton ("Hatton") and his father and sister also had accounts at IKON which were traded by ACJ and Collazo. Altogether, Hatton and his father and sister invested a total of \$288,000 with ACJ and Collazo.
23. Collazo told Hatton to focus only on the ending balance on his on-line IKON account statements and to ignore any unrealized profits and losses. On occasion, Hatton saw margin call notices for his account posted on IKON's website. Hatton asked Collazo about these margin call notices and Collazo told him "not to worry."

24. Hatton's sister wanted to withdraw funds from her account, but Collazo told her she would lose money if she took funds out at that time but that if she left the funds in the value of her account would increase.
25. Hatton and his father and sister saw the value of their accounts drop significantly in one day. Hatton talked to Collazo about this and Collazo told him that there was something wrong with IKON's website and that he would e-mail Hatton the "correct" statements.
26. Hatton subsequently contacted IKON which informed him that there were no problems with the firm's trading platform and that his on-line account statements were correct.
27. After speaking with IKON, Hatton e-mailed Collazo to ask if all of his funds had been lost. Collazo replied via e-mail in which Collazo told Hatton that he was under stress due to "the market and the losses incurred in the accounts of my customers. IKON closed all of your positions, your father's and your sister's but I didn't tell you." This was the last correspondence that Hatton had with Collazo.
28. ACJ and Collazo misled Griffen, Calimano, Hatton and other customers regarding the performance of their accounts by telling them to ignore unrealized losses that ultimately wiped out virtually all of the equity in their accounts and then, later, by e-mailing them fictitious account statements that showed that their accounts were performing well when, in fact, most, if not all, of the equity in their accounts had been lost.
29. By reason of the foregoing acts and omissions, ACJ and Collazo are charged with violations of NFA Compliance Rules 2-36(b)(1) and (2), as applied to them

by NFA Compliance Rule 2-39(a). Collazo is also charged with violations of NFA Compliance Rule 2-36(c), as applied to him by NFA Compliance Rule 2-39(a).

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:

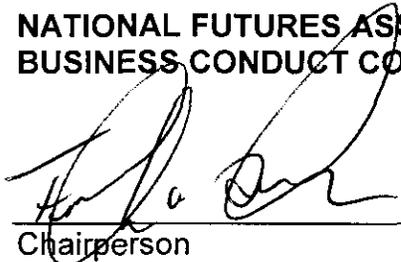
- (a) expulsion or suspension for a specified period from NFA membership;
- (b) bar or suspension for a specified period from association with an NFA Member;
- (c) censure or reprimand;
- (d) a monetary fine not to exceed \$250,000 for each violation found; and
- (e) order to cease and desist or any 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 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: 11-17-09

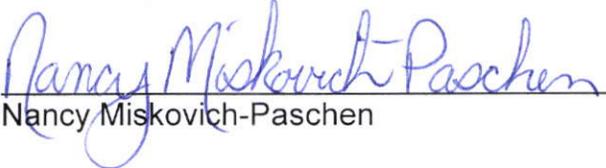
By: 
Chairperson

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:

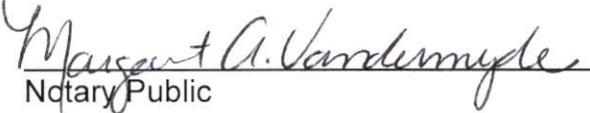
ACJ Capital, Inc.
URB Roosevelt
Calle Juan Davila #476
San Juan, 00918
Puerto Rico
Attn: Angel Collazo, President

Angel F. Collazo
URB, Las Mercedes St. 4 #6
Salinas 07407
Puerto Rico



Nancy Miskovich-Paschen

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



Notary Public

