

FILED

NATIONAL FUTURES ASSOCIATION  
BEFORE THE HEARING PANEL

JAN 29 2010

NATIONAL FUTURES ASSOCIATION  
LEGAL DOCKETING

In the Matter of:	)	
	)	
NETBLACK CAPITAL LLC	)	
(NFA ID #405361),	)	
	)	
and	)	NFA Case No. 09-BCC-024
	)	
JOHN FRANCIS NETTO	)	
(NFA ID #317562),	)	
	)	
Respondents.	)	

**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 NetBlack Capital LLC ("NetBlack") and John Francis Netto ("Netto") and having accepted the Offer, the Hearing Panel issues this Decision as to NetBlack and Netto.

I

**ALLEGED VIOLATIONS OF NFA REQUIREMENTS**

On August 25, 2009, the BCC issued a Complaint against NetBlack, a commodity trading advisor located in Las Vegas, Nevada. In addition to NetBlack, the Complaint also named Netto as a Respondent. Netto was a principal and sole registered associated person of NetBlack and an NFA Associate.

The Complaint alleged that NetBlack and Netto violated NFA Compliance Rule 2-6 by doing business with an individual, during a time when that individual was

suspended from NFA membership as a result of a prior BCC disciplinary case. The Complaint also alleged that NetBlack and Netto violated NFA Compliance Rule 2-29(b)(5) by failing to maintain support for rates of return they advertised in NetBlack's promotional material.

## II

### RESPONSE

Without admitting or denying the allegations of the Complaint, NetBlack and Netto submitted an Offer in which they proposed to settle the charges against them on the following terms:

1. NetBlack agreed to withdraw from NFA membership effective on the date of a Decision accepting its Offer and, thereafter, not reapply for NFA membership or act as a principal of an NFA Member for a period of five years; and further agreed that, if after expiration of the five-year period, described above, it reapplies for NFA membership or acts as a principal of an NFA Member, then in either such event, it shall pay a fine of \$15,000 to NFA, due and payable at the same time it applies for NFA membership or begins acting as a principal of an NFA Member.
2. Netto agreed that he, and any and all firms for which he is a principal, shall not do any business whatsoever with Jason Black ("Black"), a/k/a Jes Black, regardless of whether compensation is paid to Black or by him, for a period of thirty months commencing on the effective date of a Decision accepting his Offer; this undertaking specifically prohibits Netto and any firms for which Netto is a principal from having Black perform any activities for or on their behalf regardless of whether such activities require registration or NFA membership; and also prohibits them from having Black act for or on their behalf as an employee, consultant, advisor, independent contractor, agent, or unpaid volunteer; and further prohibits them from having Black physically present in their offices.
3. Netto agreed to pay a fine of \$15,000 to NFA, payable within thirty days of the effective date of a Decision accepting his Offer.
4. Netto agreed that, when undertaking activity in any fashion that would require registration with the Commodity Futures Trading Commission ("CFTC") and membership with NFA, he – and any and all NFA Member firms for which he is a principal (as such term is defined in NFA

Registration Rules) – shall submit all promotional material (including web-based promotional material), which contains performance information or rates of return, to NFA for review and approval prior to first using such promotional material. In addition, Netto agreed that, when undertaking activity in any fashion that would require registration with the CFTC and membership with NFA, he – and any and all NFA Member firms for which he is a principal (as such term is defined in NFA Registration Rules) – shall cause any performance information or rates of return contained in any of their promotional material to be calculated by a third party CPA and that they shall submit to NFA support for the performance calculations of the third party CPA, together with the promotional material to which such calculations pertain. Netto further agreed that this obligation shall commence on the effective date of a Decision accepting his Offer and continue thereafter for a period of twenty-four months.

### **III** **FINDINGS**

In accordance with the Offer submitted by NetBlack and Netto, in which they neither admitted nor denied the allegations of the Complaint, the Hearing Panel finds that NetBlack and Netto violated NFA Compliance Rules 2-6 and 2-29(b)(5), as alleged in the Complaint and described in Section I, above.

### **IV** **PENALTY**

The Hearing Panel, having considered this matter and having accepted the Offer made by NetBlack and Netto, hereby orders as follows:

1. NetBlack shall withdraw from NFA membership effective on the date of this Decision and, thereafter, not reapply for NFA membership or act as a principal of an NFA Member for a period of five years; and, if after expiration of the five-year period described above, NetBlack reapplies for NFA membership or acts as a principal of an NFA Member, then in either such event, it shall pay a fine of \$15,000 to NFA, due and payable at the same time it applies for NFA membership or begins acting as a principal of an NFA Member.
2. Netto, and any and all firms for which he is a principal, shall not do any business whatsoever with Jason Black ("Black"), a/k/a Jes

Black, regardless of whether compensation is paid to Black or by him, for a period of thirty months commencing on the effective date of this Decision; this undertaking specifically prohibits Netto and any firms for which Netto is a principal from having Black perform any activities for or on their behalf regardless of whether such activities require registration or NFA membership; and also prohibits them from having Black act for or on their behalf as an employee, consultant, advisor, independent contractor, agent, or unpaid volunteer; and further prohibits them from having Black physically present in their offices.

3. Netto shall pay a fine of \$15,000 to NFA, payable within thirty days of the effective date of this Decision.
4. When undertaking activity in any fashion that would require registration with the CFTC and membership with NFA, Netto – and any and all NFA Member firms for which he is a principal (as such term is defined in NFA Registration Rules) – shall submit all promotional material (including web-based promotional material), which contains performance information or rates of return, to NFA for review and approval prior to first using such promotional material. In addition, when undertaking activity in any fashion that would require registration with the CFTC and membership with NFA, Netto – and any and all NFA Member firms for which he is a principal (as such term is defined in NFA Registration Rules) – shall cause any performance information or rates of return contained in any of their promotional material to be calculated by a third party CPA and they shall submit to NFA support for the performance calculations of the third party CPA, together with the promotional material to which such calculations pertain. This obligation shall commence on the effective date of this Decision and continue thereafter for a period of twenty-four months.

This Decision accepting NetBlack and Netto's Offer shall operate to bar any future Member Responsibility Action or BCC Complaints against NetBlack and Netto for any conduct occurring, of which NFA had corporate knowledge, up to the date of NetBlack and Netto's Offer; and shall resolve and terminate all complaints, investigations and audits, relative to NetBlack and Netto, which were received or pending as of the date of their Offer. Furthermore, NetBlack and Netto's Offer and this Decision accepting their Offer shall not be used as a sole basis for any other action or proceeding by NFA against NetBlack and Netto, including any registration matter,

except their Offer and this Decision accepting their Offer may be used in an action to enforce the terms thereof 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 CFTC Regulation 1.63, this Decision and the sanctions imposed herein render Netto ineligible 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, until the later of three years after the effective date of this Decision, or until he has satisfied all the sanctions and conditions imposed by this Decision.

**NATIONAL FUTURES ASSOCIATION  
HEARING PANEL**

Date: 01/29/2010

By:   
Chairperson

**AFFIDAVIT OF SERVICE**

I, Nancy Miskovich-Paschen, on oath state that on January 29, 2010, 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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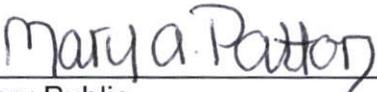
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and by hand delivery to:

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Chicago, IL 60606

  
Nancy Miskovich-Paschen

Subscribed and sworn to before me  
on this 29th day of January 2010.

  
Notary Public

