

**NATIONAL FUTURES ASSOCIATION  
BEFORE THE  
MEMBERSHIP COMMITTEE**

MAR - 2 2010

NATIONAL FUTURES ASSOCIATION  
LEGAL DOCKETING

In the Matter of: )  
)  
WILLIAM M. RILL )  
(NFA ID #400682), )  
)  
)  
Registrant.

NFA Case No. 09-REG-033

**FINAL ORDER REVOKING REGISTRATION**

A designated Subcommittee of the Membership Committee held a hearing to determine whether to revoke William M. Rill's (Rill) registration as an associated person (AP) under the Commodity Exchange Act (the Act).<sup>1</sup> After considering all the evidence submitted by the parties in light of the appropriate standards, the Subcommittee determines to revoke Rill's registration as an AP.

I

**PROCEDURAL BACKGROUND**

Rill was registered as an AP of Pioneer Commodities LLC (Pioneer) from July 18, 2008, through February 25, 2009. Rill has been an AP of Windsor Wealth Management LLC (Windsor) since February 13, 2009. On September 16, 2009, National Futures Association (NFA) issued a Notice of Intent to Revoke Registration (the Notice) to Rill. The Notice alleged that on July 3, 2008, Rill requested that he be granted extra time to complete the Series 3 examination based upon his representation

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<sup>1</sup> This matter was heard as part of a consolidated hearing in the matters of Teresia A. Bactawar, NFA docket number 09-REG-017; Nicholas P. Payne, NFA docket number 09-REG-018; Jeremy J. Grena, NFA docket number 09-REG-019; Alexander M. Silverman, NFA docket number 09-REG-020; Lusay A. Wooten, NFA docket number 09-REG-021; Nabil P. Niman, NFA docket number 09-REG-032; and William M. Rill, NFA docket number 09-REG-033.

that English is not his primary language. NFA alleged in the Notice that Rill is fluent in English and therefore the fact that he requested extra time to complete the Series 3 examination based on the representation that English is not his primary language constitutes other good cause to disqualify him from registration under Section 8a(3)(M) of the Act. On October 5, 2009, Rill filed a response to the Notice in which he admitted that English is his primary language. Rill also admitted that he requested an extra hour to complete the Series 3 examination, but that he did so as "an accommodation and not with the intent to mislead NFA." Rill denied that this conduct disqualifies him from registration and also indicated that he intended to show that notwithstanding the allegations contained in the Notice, his registration does not pose a substantial risk to the public.

## II

### **EVIDENCE PRESENTED AT THE HEARING**

NFA introduced, without objection, a certified copy of the publicly available portions of Rill's registration record, a copy of the letter from Windsor requesting an extra hour for Rill to complete the Series 3 examination because English is not his primary language, and Rill's written response to interrogatories from NFA. Rill testified on his own behalf and introduced letters from three individuals commenting on Rill's character.

NFA's interrogatories required Rill to provide certain information on his background and the circumstances surrounding his request for an additional hour to complete the Series 3 examination. In response to those interrogatories, Rill represented that he was born in the United States, that English is his primary language,

and that he does not speak any other languages fluently.

During the hearing, Rill testified that when he was hired by Pioneer, Anthony Bobba (Bobba), Pioneer's chief executive officer, told him that he would have to pass the Series 3 examination and that he would take a Series 3 review course with Rocky (Disillo). Rill stated that he asked Disillo about obtaining extra time to take the Series 3 examination because he was diagnosed with a learning disability when he was thirteen years old. Rill indicated that Disillo told him the way to get extra time was to claim that English is not his primary language so he signed a form stating that English is not his primary language. Rill testified that he knew when he signed the form that it was not true to represent that English is not his primary language, but he did so anyway because Disillo told him it was the way to obtain an extra hour to take the examination. Finally, Rill stated that as a result of this action, he looked further into the testing accommodations and learned that FINRA has a special program for people with learning disabilities to request additional time to take the examination.

### III

#### **FINDINGS AND CONCLUSIONS**

For the reasons discussed below, the Subcommittee finds that when Rill requested an extra hour to complete the Series 3 examination, he misrepresented that English is not his primary language. The Subcommittee also finds that this conduct is other good cause to disqualify Rill from registration under Section 8a(3)(M) of the Act because the conduct reflects a lack of honesty and an inability to comply with regulatory requirements, and therefore the Subcommittee may revoke his registration under Section 8a(4) of the Act. Finally, the Subcommittee finds that Rill has not met his

burden of showing, by a preponderance of the evidence, that his registration does not pose a substantial risk to the public.

Section 8a(4) of the Act authorizes NFA to revoke the registration of a person if cause exists under Section 8a(3) of the Act that would warrant a refusal of registration of such person. Section 8a(3)(M) of the Act provides that a person may be refused registration for other good cause. NFA alleges that Rill misrepresented that English is not his primary language when he requested an extra hour to complete the Series 3 examination. Rill admitted in his response to NFA's interrogatories that English is his primary language, and he acknowledged at the hearing that when he requested the extra hour for the examination, he knew that it was not true to represent that English is not his primary language. NFA alleges that this conduct reflects a lack of honesty and an inability by Rill to comply with regulatory requirements and thus disqualifies him from registration under Section 8a(3)(M) of the Act.

Although Section 8a(3)(M) does not specify the conduct that constitutes "other good cause," the Commodity Futures Trading Commission (the Commission) has said that other good cause under Section 8a(3)(M) exists "if, as a result of any act or pattern of conduct attributable to such person, although never the subject of formal action . . . such person's moral turpitude, **or lack of honesty** or financial responsibility is demonstrated to the Commission." (emphasis added). *Interpretive Statement with Respect to Section 8a(2)(C) and (E) and Section 8a(3)(J) and (M) of the Commodity Exchange Act*, Appendix A to Part 3 of CFTC Regulations, 1 Comm. Fut. L. Rep. (CCH) ¶ 2220L.

The Subcommittee finds that Rill clearly demonstrated a lack of honesty when he falsely claimed that English is not his primary language in order to receive additional time to complete the Series 3 examination. Accordingly, the Subcommittee finds that Rill is disqualified from registration under Section 8a(3)(M) of the Act.

Proof of the existence of a statutory disqualification raises a rebuttable presumption that the applicant or registrant is unfit for registration. The burden then shifts to the registrant to show that, notwithstanding his statutory disqualification, his registration will not pose a substantial risk to the public. *In re Antonacci*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,835 at 36,930 (CFTC Apr. 18, 1990); *In re Horn*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,836 at 36,939 (CFTC Apr. 18, 1990) (*Horn II*); *In re Walter*, [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,215 at 35,010 (CFTC Apr. 14, 1988); *In re Akar*, [1986-1987 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 22,927 at 31,708 (CFTC Feb. 24, 1986). As Rill is subject to disqualification under Section 8a(3) of the Act, he must make this showing by a preponderance of the evidence. Commission Regulation 3.60(e)(2) ((17 C.F.R. §3.60(e)(2)); *In re Riley*, [1992-1994 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶26,239 at 42,048 (CFTC Sep. 29, 1994); *In re Bryant*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,847 at 36,997 (CFTC Apr. 18, 1990).

There are two types of evidence that Rill can present to prove that his registration would not pose a substantial risk to the public: evidence of mitigating circumstances relating to the wrongful conduct underlying the statutory disqualification and evidence of rehabilitation since the time of the wrongful conduct. *Walter*, [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) at 35,013; *In re Horn*, [1986-1987

Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶¶ 23,731 at 33,889 (CFTC July 21, 1987) (Horn I). Having considered Rill's evidence, the Subcommittee concludes that Rill has not met his burden.

Mitigation evidence focuses on the facts and circumstances surrounding the underlying conduct and tends to show that the weight that would ordinarily be accorded the presumption of unfitness should be lessened. *Walter*, [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) at 35,013; *Horn I*, [1986-1987 Transfer Binder] Comm. Fut. L. Rep. (CCH) at 33,889. At the hearing, Rill attempted to mitigate his conduct in two ways. First, Rill stated that he was diagnosed with a learning disability at age thirteen and had been given additional time in school to take tests. Rill stated that was the reason he needed additional time for the Series 3 examination. Next, Rill argued that he was only following the instructions of Disillo. The Subcommittee does not believe that either of these factors mitigates Rill's conduct. If Rill has been dealing with a learning disability since age thirteen, he clearly knew that accommodations may have been available to him. Rather than determine whether he was entitled to any special accommodations, he chose instead to lie to obtain what he thought was the proper outcome. Similarly, Rill's claim that he was simply doing what he was told to do by Disillo does nothing to lessen the presumption of being unfit. In fact, the Subcommittee has grave concerns regarding a registrant who will knowingly lie because a person in a more senior position tells him it is okay to do so. Rather than mitigate Rill's conduct, these factors indicate to the Subcommittee that Rill is willing to skirt requirements when it is in his benefit to do so.

Rill's rehabilitation evidence is also lacking. The purpose of rehabilitation evidence is to prove a change in direction in an applicant's or registrant's activities. *Antonacci*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) at 36,933. Rill's rehabilitation evidence consisted of three letters from individuals (a former neighbor, a former employer, and a psychologist who treated Rill in the past) commenting on his character. None of these letters, however, provide any evidence of rehabilitation. In addition to being unsworn statements, not one of the writers indicates that he is aware of Rill's disqualifying conduct or discusses how Rill has changed since the disqualifying conduct. In order to provide evidence of rehabilitation, character witnesses "must offer insight into changes in character or business practices since the wrongdoing, rather than just proffer a list of compliments," *In re Lowrance*, [1992-1994 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,054 at 41,376, 41,382 (CFTC Apr. 15, 1994) (citing *Antonacci*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) at 36,933) and be "fully aware of the applicant's disqualifying conduct." *In re Marzano* [2005-2007 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,163 at 57,638, 57,641 (CFTC Jan. 4, 2006) (citing *Bryant*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) at 36,998 - 36,999). Clearly the letters submitted by Rill do not contain any of the detail needed to be considered evidence of rehabilitation.

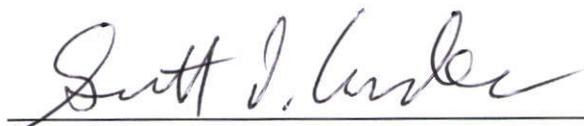
Based upon the entire record before it, the Subcommittee finds that Rill has not shown by the preponderance of the evidence that his registration does not pose a substantial risk to the public. Therefore, the Subcommittee revokes Rill's registration.

IV

APPEAL

This Final Order shall be effective thirty days after it is served on Rill as prescribed by Commission Regulation 171.9. Rill may appeal this Final Order to the Commission under Commission Regulation 171.23 by filing a Notice of Appeal with the Commission within thirty-five days after this Final Order is mailed. Under Commission Regulation 171.22, Rill may petition the Commission to stay the effective date of this Final Order by filing a petition with the Commission within fifteen days after this Final Order is mailed.

Date: 03/02/10

By:   
Scott A. Cordes  
Chairman of the Subcommittee

**AFFIDAVIT OF SERVICE**

I, Nancy Miskovich-Paschen, on oath state that on March 2, 2010, I served copies of the attached Final Order Revoking Registration, by sending such copies in the United States mail, postage prepaid, certified mail, return receipt requested, and by regular mail, first-class delivery, in envelopes addressed as follows:

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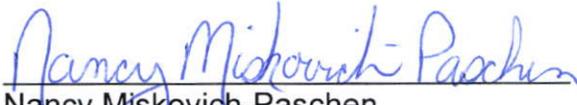
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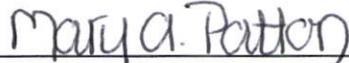
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Nancy Miskovich-Paschen

Subscribed and sworn to before me on this 2nd day of March 2010.

  
Notary Public

