

FILED

NATIONAL FUTURES ASSOCIATION  
BEFORE THE  
MEMBERSHIP COMMITTEE

MAR 25 2010

NATIONAL FUTURES ASSOCIATION  
LEGAL DOCKETING

In the Matter of:

CHRIS CAMERON  
(NFA ID #406309),

Applicant.

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NFA Case No. 09-REG-031

**FINAL ORDER DENYING REGISTRATION**

A designated Subcommittee of the Membership Committee held a hearing to determine whether to grant, condition, or deny Chris Cameron's (Cameron) application for registration as a floor trader (FT) under the Commodity Exchange Act (the Act). After considering all the evidence submitted by the parties in light of the appropriate standards, the Subcommittee denies Cameron's application for FT registration.

I

**PROCEDURAL BACKGROUND**

On December 26, 2008, Cameron filed an application to become registered with the Commodity Futures Trading Commission (Commission) as an FT. On September 16, 2009, National Futures Association (NFA) issued a Notice of Intent to Deny Registration (the Notice) to Cameron. The Notice alleged that on June 15, 2005, Cameron pled nolo contendere to the felony offense of fleeing and eluding, which disqualifies him from registration under Section 8a(3)(H) of the Act. The Notice further alleged that Cameron failed to disclose that he pled nolo contendere to a felony on his application for registration as an FT, which disqualifies him from registration under

Section 8a(2)(G) of the Act. On September 18, 2009, Cameron filed a response to the Notice in which he did not dispute the allegations in the Notice but represented that he intended to show that his registration would not pose a substantial risk to the public.

## II

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

NFA presented documentary evidence of Cameron's statutory disqualifications. Cameron testified on his own behalf and introduced certain documentary evidence.

NFA introduced, without objection, a certified copy of the publicly available portions of Cameron's registration record including his Form 8-R application for registration as an FT. NFA also introduced a certified copy of the information and court disposition order in State of Florida v. Chris Steven Cameron, Case No. 05-2553CF10A, which showed that Cameron pled nolo contendere to the third degree felony offense of fleeing and eluding.

During the hearing, Cameron testified that in February 2005 he drank too much at lunch and then started to drive home. After begin stopped by police, he was charged with a misdemeanor offense of driving under the influence of alcohol and the felony offense of fleeing and eluding a law enforcement officer. Cameron indicated that he pled nolo contendere to the felony and was sentenced to, among other things, twenty-four months probation and sixteen hours of counseling. Cameron testified to his belief that his nolo contendere plea resulted in adjudication of the felony being withheld and that his attorney at the time assured him that this would result in his not having a felony conviction.

Cameron testified that he was released from probation after less than a year. Additionally, he indicated that he successfully completed the counseling imposed by the court and then voluntarily continued receiving counseling, which he credited with changing his life. Cameron said that the counseling was what made him decide to leave Florida and return to trading securities. He testified that without the counseling he would still be "mucking around."

Cameron also testified that the reason he answered "no" to the question on whether he had pled nolo contendere to a felony was because he believed that once he successfully completed his probation that he would not have a felony on his record. Cameron stated that he has since learned that his belief was wrong, but that he did not willfully or intentionally misrepresent this information in his registration application.

Cameron testified that he regrets not completing the application correctly or taking the time to check with his lawyer on the correct answer. Cameron attributed this to his "haste" in completing the application. Cameron admitted under questioning from the Subcommittee that if he had read the application completely, particularly the instruction to the disciplinary information section, it seems "crystal clear" what the answer would be.<sup>1</sup>

Cameron also introduced, without objection, letters from Don Abramson (Abramson) a manager at AK Securities, LLC (AK), with which Cameron is a limited

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<sup>1</sup> Page 2 of the Form 8-R application indicates that "The Commodity Futures Trading Commission requires a 'Yes' answer even if the matter has been expunged or the records sealed, there was no adjudication or finding of guilt, the guilty plea was vacated or set aside or the matter was dismissed upon the completion of the diversion program."

partner and trades securities, Martin Lizarraga (Lizarraga), a fellow limited partner in AK, and Michael Yost (Yost). Cameron also introduced a letter of completion dated March 1, 2005, for "Advocate D.U.I. School" and a letter of completion dated June 14, 2005, for a "Safe and Sober program" at Bayview Center in North Miami, Florida.

### III

#### **FINDINGS AND CONCLUSIONS**

For the reasons discussed below, the Subcommittee finds that Cameron's nolo contendere plea to the felony offense of fleeing and eluding disqualifies him from registration under Section 8a(3)(H) of the Act. The Subcommittee also finds that Cameron's failure to disclose this plea was willful and therefore disqualifies him from registration under Section 8a(2)(G) of the Act. Finally, the Subcommittee finds that Cameron has failed to show by clear and convincing evidence, or the lesser standard of the preponderance of the evidence, that his registration will not pose a substantial risk to the public.

Section 8a(3)(H) of the Act authorizes NFA to refuse to register or to register conditionally any person who has pled nolo contendere to a felony. Section 8a(2)(G) of the Act authorizes NFA to refuse to register any person who willfully omits any material fact as to any of the matters set forth in Section 8a(3) of the Act in such person's application or any update to their application. Cameron does not dispute the fact that he is statutorily disqualified under Section 8a(3)(H).

Cameron admits that he failed to disclose the nolo contendere plea, but denies that the failure was willful. NFA has the burden of showing that Cameron's omission was both material and willful. A fact is material if it would be a significant

ingredient in determining a person's fitness for registration, even if not a determinative factor. *In re Menkes*, [1980-1982 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 21,258 at 25,273 (CFTC Sept. 22, 1981). Since the registration application specifically asks if the applicant has ever pled nolo contendere to a felony, Cameron's circumstances are clearly covered by this question and, therefore, his omission is material.

An omission is willful if it was done knowingly or with reckless disregard.

*In re Squadrito*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,262 (CFTC Mar. 27, 1992). Actual knowledge or intent is not necessary if the failure to disclose the misdemeanor resulted from a reckless disregard for regulatory obligations.

*In re Mersch*, [2001-2002 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,636 (CFTC Sep. 4, 2001).

The application verified by Cameron begins with the following statement in bolded capital letters:

**READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING OR REVIEWING THE APPLICATION. THE FAILURE TO ANSWER ALL QUESTIONS COMPLETELY AND ACCURATELY OR THE OMISSION OF REQUIRED INFORMATION MAY RESULT IN THE DENIAL OR REVOCATION OF REGISTRATION.**

This warning was the very first thing Cameron would have seen as he accessed the online application. Furthermore, the disciplinary history question to which Cameron falsely answered "no" asks "[h]ave you personally . . . ever pled guilty or nolo contendere ('no contest') to or been convicted or found guilty of any felony..."

Cameron testified that he had "hastily" read the instructions to the application. At the hearing, Cameron admitted that the Form 8-R application instructions are clear and he should have disclosed the nolo contendere plea.

Cameron's failure to disclose the nolo contendere plea on his Form 8-R application shows a reckless disregard for his regulatory obligations and, therefore, the Subcommittee finds his failure to disclose the matter was willful.

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 applicant or 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). With regard to the disqualification under Section 8a(3) of the Act, the nolo contendere plea, Cameron must make this showing by a preponderance of the evidence. *In re Bryant*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,847 at 36,997 (CFTC Apr. 18, 1990). Cameron must make this showing by clear and convincing evidence with regard to his failure to disclose the plea – the Section 8a(2) disqualification. *Horn II*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) at 36,939.

There are two types of evidence that Cameron 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 disqualifications 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 Jul. 21, 1987) (Horn I). Having considered Cameron's evidence, the Subcommittee concludes that Cameron 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.

Cameron did not offer any mitigation evidence with regard to the *nolo contendere* plea to the felony of fleeing and eluding police. With regard to the failure to disclose his plea, Cameron testified that at the time he was completing the Form 8-R application he "assumed that when [he] successfully completed [his] probation "the whole matter would go away." This does not mitigate Cameron's failure, however, especially in light of the fact that the instructions go to great lengths to make clear that a matter must be disclosed even when it was expunged or sealed, there was no adjudication or finding of guilt, or if a guilty plea was vacated. Further, Cameron admitted that he failed to consult with an attorney or contact NFA or anyone else to determine whether he needed to disclose the matter.

Cameron's rehabilitation evidence is likewise lacking. The purpose of rehabilitation evidence is to prove a change in direction in an applicant's or registrant's activities since the wrongful conduct. *Antonacci*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) at 36,933. Cameron expressed regret at his actions that resulted in

the felony plea. He likewise expressed regret regarding his failure to disclose the matter. Contrition by itself, however, is not sufficient to show rehabilitation. See *In re Clark*, [1996-1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 27,032 at 44,927 (CFTC Apr. 22, 1997). Although Cameron spoke about the counseling he received in 2005 changing his life, he did not provide any convincing or compelling rehabilitation evidence.

The unsworn letters from three character witnesses fail to provide sufficient evidence of rehabilitation. For purposes of evaluating rehabilitation evidence, the Subcommittee must look for character witnesses that "are 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. None of the letters offered by Cameron meet this standard. Yost indicates he has known Cameron for twenty years, yet he does not mention either the nolo contendere plea or the failure to disclose the plea. Although Abramson refers to Cameron's "DUI conviction" and Lizarraga refers to Cameron's "arrest" neither of them "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). Yost simply states his belief that Cameron is honest and has good character. Abramson states that he has had no problems with Cameron and he believes Cameron is suitable for registration. Lizarraga writes that he believes Cameron "has taken all the right steps to rehabilitate

himself from" his arrest, but he does not offer details of any changes in Cameron or of a change in the direction of Cameron's life or activities. In short, none of the letters submitted by Cameron include the detail needed to be considered evidence of rehabilitation.


Based upon the entire record before it, the Subcommittee finds that Cameron has not shown by clear and convincing evidence, or the lesser preponderance of the evidence standard, that his registration will not pose a substantial risk to the public. Therefore, the Subcommittee denies Cameron's application for registration.

IV

APPEAL

This Final Order shall be effective thirty days after it is served on Cameron as prescribed by Commission Regulation 171.9. Cameron 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, Cameron 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: 03/25/2010

By:   
David M. Kozak  
Chairman of the Subcommittee

**AFFIDAVIT OF SERVICE**

I, Myra Lewis, on oath state that on March 25, 2010, I served copies of the attached Final Order Denying 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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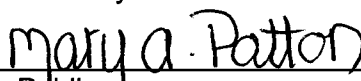
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\_\_\_\_\_  
Myra Lewis

Subscribed and sworn to before me  
on this 25th day of March 2010.

  
\_\_\_\_\_  
Notary Public

