



2. At all times relevant to this Complaint, Martinez was a listed principal and registered associated person ("AP") of I-Trade, and an NFA Associate in accordance with NFA Bylaw 301(b). As such, Martinez was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. I-Trade is also liable for violations of NFA Requirements committed by Martinez during the course of his activities on behalf of I-Trade.

### **BACKGROUND**

3. I Trade has been registered as an FCM since August 3, 2006 and solely conducts retail, off-exchange forex business. Martinez is the firm's president, a registered AP, an NFA Associate, and listed principal of the firm. As of NFA's April 2008 audit, I-Trade had approximately \$10 million in customer liabilities and approximately 3,000 active customer accounts, though only nine of these accounts had more than \$50,000 in equity.
4. At all times relevant to this Complaint, Jacob N. Martinez ("Jacob Martinez") and Jared F. Martinez ("Jared Martinez") were also principals with an ownership interest in the firm, as well as the brother and father, respectively, of Martinez.
5. For approximately nine months in 2007, I-Trade listed David Smith ("Smith") as a principal since he contributed almost 100% of the firm's capital. At all times relevant to this Complaint, Smith lived in Turks & Caicos and operated two entities, Olint Corporation ("Olint") and TCI FX Traders ("TCI"), which appear to be investment clubs in the Caribbean for high net worth individuals.<sup>1</sup>

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<sup>1</sup> The Financial Services Commission of Jamaica ("FSC") investigated Olint and Smith for allegedly offering illegal securities, and issued a cease and desist order in March 2006 that, among other things, prevented Olint from accepting new members.

6. Because of concerns about Smith's background and the source of funds he used to capitalize I-Trade, NFA asked the firm to provide Smith's personal bank records. I-Trade firm withdrew Smith as a principal on December 31, 2007 and repaid his membership interest in the firm when it was unable to obtain Smith's bank records.
7. Over the course of several months, NFA investigated I-Trade's operations and found accounts held in the name of Smith-related entities (i.e., Olint and TCI), as well as certain other accounts, were at the center of suspicious money transfer activity that I-Trade failed to report.

#### **APPLICABLE RULES**

8. NFA Compliance Rule 2-9(c) and a related Interpretive Notice ("Notice") require an FCM Member to develop and implement a written anti-money laundering ("AML") program. NFA Compliance Rule 2-9(c) also states, in pertinent part, that a firm's AML program must establish and implement policies, procedures and internal controls reasonably designed to assure compliance with the applicable provisions of the Bank Secrecy Act, and designate an individual (or individuals) to implement and monitor the day-to-day operations and the program's internal controls.

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Olint appealed the FSC order to the Jamaican Supreme Court in March 2007, and the Jamaican Supreme Court upheld the FSC order in December 2007. Olint appealed the Supreme Court decision, and NFA believes the appeal is still pending.

9. Among other things, the Notice related to Compliance Rule 2-9(c) highlights the minimum standards that are part of an adequate AML program, provides additional guidance on satisfying the requirements of Compliance Rule 2-9(c), and discusses key components of the firm's policies, procedures and internal controls, including detecting and reporting suspicious activity. The Notice provides examples of suspicious transactions, includes detailed information about monitoring accounts for suspicious activity, and identifies wire transfer activity as one area that firms should give heightened scrutiny and requires monitoring in this area to include review of unusual wire transfers.
10. In addition, the Notice provides specific examples of "red flags" that could cause firms to investigate further, including:
  - engaging in extensive, sudden or unexplained wire activity;
  - transactions involving more than \$5,000 in currency or cash equivalents in one transaction (or a series) in one or more days and in several accounts; and
  - making a deposit, followed by a request for the money to be wired or transferred to a third party, or another firm, without any apparent business purpose.
11. The Notice also states a firm's compliance program must require employees to notify the personnel identified in the AML program promptly about any potential suspicious activity, and that person must evaluate the activity and decide whether it warrants reporting to FinCEN. For transactions occurring after May 18, 2004, an FCM must also file a Suspicious Activity Report for Securities and Futures ("SAR-SF" or "SAR") with FinCEN to report suspicious transactions.
12. NFA Compliance Rule 2-36(e) provides that each FDM shall diligently supervise its employees and agents in the conduct of their foreign currency futures and

options activities for or on behalf of the FDM. Each Associate of an FDM who has supervisory duties shall diligently exercise such duties in the conduct of that Associate's foreign currency futures and options activities for or on behalf of the FDM.

### COUNT I

#### **VIOLATION OF NFA COMPLIANCE RULE 2-9(c): FAILURE TO IMPLEMENT AN ADEQUATE AML PROGRAM.**

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13. The allegations set forth in paragraph 1 and paragraphs 8 through 11 are re-alleged as paragraph 13.
14. In conformity with the guidance provided in NFA Compliance Rule 2-9(c) and the related Interpretive Notice, I-Trade developed an AML program. The pertinent part of the firm's AML program contained the following "red flags" to help identify suspicious activity:
- The customer has a questionable background or is subject of news reports indicating possible criminal, civil, or regulatory violations;
  - The customer's account has unexplained or sudden extensive wire activity, especially in accounts that had little or no previous activity;
  - The customer's account shows an unexplained high level of account activity with very low levels of trading activities;<sup>2</sup>
  - The customer's account has wire transfers that have no apparent business purpose to or from a country identified as a money laundering risk or a bank secrecy haven;
  - The customer maintains multiple accounts, or maintains accounts in the names of family members or corporate entities, for no apparent purpose; and
  - The customer's account has inflows of funds or other assets well beyond the known income or resources of the customer.

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<sup>2</sup> Prior to the September 5, 2007 revisions to its AML Policy, this point in I-Trade's AML policy referred to "securities transactions" instead of "trading activities."

15. I-Trade's AML program stated that when a firm member detected any of these "red flags," he or she would investigate under the direction of the firm's AML compliance officer. I-Trade's procedures also identified actions firm personnel could take and specifically provided for giving a suspect account to the AML compliance officer to review certain information, such as orders prior to entry, daily trading activity, money transfer requests and deposits, as well as contacting the government, freezing the account, or filing a SAR-SF.
16. I-Trade's November 2006 and September 2007 AML programs identified Martinez as the firm's AML compliance officer responsible for overseeing the firm's AML policy. In August 2007, I-Trade hired Kim Estrada ("Estrada") as its compliance and AML officer.
17. Between November 2006 and April 2008, NFA found suspicious money transfer activity that I-Trade failed to report. Most of the suspicious activity occurred in accounts related to Smith (i.e., Olint and TCI) and involved activity identified in both NFA's Interpretive Notice and I-Trade's own AML program as "red flags." This activity included extensive and unexplained wire activity, transactions involving more than \$5,000 in currency or cash equivalents, deposits followed by a transfer request to a third party without any apparent business reason, and unexplained, extensive wire activity with very low trading levels in the accounts.
18. In November 2006, NFA reviewed the activity in an account Olint opened with I-Trade in September 2006. The Olint account opening documents indicated Smith and his wife owned Olint and that the funds in the account came from them only.

19. A statement for the Olint account showed a balance of approximately \$20 million, with frequent deposit and withdrawal wire activity. For example, during the first two months the account was open, Olint made four deposits totaling approximately \$59 million and eight withdrawals totaling about \$35.5 million, though no trading activity occurred during this time.
20. NFA later identified three other Olint accounts, with deposits ranging from \$500,000 to \$2 million. While trading was occurring in the accounts, Olint only committed a fraction of the account equity to trading. At the end of March 2007, Olint withdrew the bulk of the funds from three of the accounts in amounts ranging from about \$938,000 to over \$1.7 million.
21. Two TCI accounts both showed suspicious activity similar to an Olint account. For example, TCI made two deposits totaling over \$40 million in one account and withdrew about the same amount over the course of three transactions, even though no trading activity ever occurred in the account. In the second account, TCI made about a \$20 million deposit and withdrew about the same amount less than two weeks later, while making only minimal trades during this time.
22. TCI also opened a third account in June 2007, even though it had withdrawn all the funds from the other two accounts in March. TCI deposited over \$12 million into this new account, but very little trading activity occurred, and TCI subsequently closed this account in February 2008.
23. Moreover, from I-Trade's inception in August 2006 to May 2007, Olint and TCI deposited almost \$100 million into trading accounts at the firm. However, Olint and TCI traded only a small percentage of these funds and withdrew the vast

majority of the money by May 2007. In addition, Olint and TCI only received about half of the withdrawn funds, while I-Trade sent the other \$50 million to JIJ Investments ("JIJ"), a company owned by Martinez and his brother and father (i.e., Jacob and Jared Martinez).

24. Not only did I-Trade continue to ignore suspicious activity in the Smith-related accounts, but it also facilitated unusual transactions between accounts. Records show an approximately \$3 million wire from a JIJ bank account into I-Trade for JIJ's account at the firm, yet I-Trade deposited the funds into a TCI account controlled by Smith. A few days later, I-Trade adjusted the TCI and JIJ accounts, moving the money from TCI to JIJ, which withdrew the funds shortly thereafter and sent them back to its bank account without committing any of the money to trading.
25. I-Trade did not file a SAR-SF on any of the Olint and TCI accounts, contrary to NFA Compliance Rule 2-9(c), the Interpretive Notice and the guidelines in the firm's own AML program.
26. Another account with suspicious money transfer activity opened in August 2006 in the name of Ingrid Loiten ("Loiten"). Loiten's account opening documents showed an annual income and net worth of between \$25,000 and \$50,000. However, Loiten's account statements reflect 17 deposits totaling over \$1.7 million between December 2006 and March 2007.
27. I-Trade's records also include an April 17, 2007 e-mail to Martinez from Jared Martinez concerning an April 13 meeting with Loiten, during which she told Jared Martinez she owned and operated a multi-million dollar website,

www.homeworkjamaica.com, and wished to deposit between \$2 and \$5 million of her personal funds into her trading account. Despite the discrepancy between Loiten's account application and her verbal representation to Jared Martinez in April concerning her financial information, I-Trade waited almost two months to obtain updated information from Loiten, even though it accepted an additional \$2.7 million in deposits during that same time.

28. Not only did Loiten deposit funds into her account that were inconsistent with her annual income and net worth, but also changes to her wire activity were unexplained and unusual. To illustrate, Loiten opened her account with a \$500 deposit and, over the next three months, made four subsequent deposits averaging less than \$2,000. However, the wired deposits changed dramatically in size and frequency at the end of December 2006, and for the next three months, when Loiten made multiple deposits (e.g., five to six per month) for amounts averaging over \$100,000.
29. [REDACTED.]
30. Suspicious money transfer activity also occurred in the account of Gareth Harris ("Harris"). Harris opened an I-Trade account in December 2006, and his account opening documents indicated an annual income and net worth of less than \$25,000. However, Harris deposited approximately \$100,000 into his trading account in May 2007 and made two deposits totaling almost \$10 million in October 2007.
31. Harris initially opened his account with an approximately \$2,000 deposit, and made subsequent deposits over the next three and a half months averaging about \$1,700. However, this pattern dramatically changed in mid-April 2007, when deposits

significantly increased in size – initially averaging about \$30,500 and then later jumping to almost \$5 million. At no time did I-Trade file a SAR for the suspicious activity in Harris's account, despite the sudden unexplained and unusual wire activity and the discrepancies between his reported annual income and net worth and the flow of deposits into his account.

## COUNT II

### VIOLATION OF NFA COMPLIANCE RULE 2-36(e): FAILURE TO SUPERVISE.

32. The allegations set forth in paragraphs 1, 2 and 12 are realleged as paragraph 32.
33. The diligent supervision of employees and agents in the conduct of their forex activities for or on behalf of an FDM requires, in part, that FDMs and their Associates who have supervisory duties diligently exercise those duties to ensure the FDM complies with all NFA Requirements.
34. The allegations set forth in paragraphs 14 through 31 are realleged as paragraph 34.
35. Martinez, as I-Trade's president, was responsible for the firm's overall operations. Not only was Martinez the firm's AML compliance officer responsible for overseeing the firm's AML policy, which included filing SARs, he also was the point person at I-Trade who responded to NFA's AML inquiries, and he continued these duties for a period even though the firm had hired Estrada as its AML compliance officer. Moreover, there numerous suspicious activities that I-Trade and Martinez failed to report, and he completely disregarded the firm's AML procedures by allowing certain I-Trade customers to engage in numerous

questionable financial transactions and open additional accounts, despite the existence of the AML warning signs outlined in NFA's Interpretive Notice and the firm's own procedures.

36. Furthermore, when I-Trade eventually began filing SARs, the reported activity paled in comparison to the activity that occurred in other accounts for which the firm did not file SARs. As of April 2008, I-Trade filed approximately 24 SARs, but none of them involved activity in the Olint or TCI accounts, even though I-Trade reported activity for similar questionable acts in other customer accounts.
37. I-Trade and Martinez failed to adopt and implement effective steps to ensure the firm complied with all NFA Requirements.
38. Because of the foregoing acts and omissions, I-Trade and Martinez are charged with violations of NFA Compliance Rule 2-36(e).

### **PROCEDURAL REQUIREMENTS**

#### **ANSWER**

You must file a written Answer to the Complaint with NFA within thirty (30) 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 a denial of the pertinent allegation.

NFA staff is authorized to grant such reasonable extensions of time in which an Answer may be filed, as it deems appropriate. The place for filing an Answer shall be:

National Futures Association  
200 West Madison Street  
Suite 1600  
Chicago, Illinois 60606-3447  
Attn: Legal Department-Docketing

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 AP 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: 06/30/08

By:   
Chairperson

**AFFIDAVIT OF SERVICE**

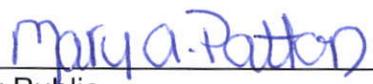
I, Nancy Miskovich-Paschen, on oath state that on June 30, 2008, I served copies of the attached Complaint, by sending such copies in the United States mail, first-class delivery, and by overnight mail, in envelopes addressed as follows:

I Trade FX LLC  
400 Colonial Center Parkway  
Suite 300  
Lake Mary, FL 32746  
Attn: L. Kim Estrada  
Chief Compliance Officer

Isaac Martinez  
114 Boulder Ct.  
Sanford, FL 32789

  
\_\_\_\_\_  
Nancy Miskovich-Paschen

Subscribed and sworn to before me  
on this 30th day of June 2008.

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

