

NATIONAL FUTURES ASSOCIATION  
BEFORE THE  
BUSINESS CONDUCT COMMITTEE

FILED

OCT 27 2010

NATIONAL FUTURES ASSOCIATION  
LEGAL DOCKETING

In the Matter of: )  
)  
DILIGENT MANAGEMENT LLC )  
(NFA ID #399324), )  
)  
and ) NFA Case No. 10-BCC-031  
)  
SCOTT L. BRYCE )  
(NFA ID #400372) )  
)  
Respondents. )

**COMPLAINT**

Having reviewed the investigative report submitted by the Compliance Department of National Futures Association ("NFA"), and having 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 issues this Complaint against Diligent Management LLC ("DM") and Scott L. Bryce ("Bryce").

**ALLEGATIONS**

**JURISDICTION**

1. At all times relevant to this Complaint, DM was a commodity trading advisor ("CTA") NFA Member. As such, DM was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.
2. At all times relevant to this Complaint, Bryce was DM's sole associate person ("AP"), listed principal and an NFA Associate. As such, Bryce was required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.

### **BACKGROUND**

3. NFA commenced an investigation of DM in October 2009 which found that DM used a deficient disclosure document ("DD") that failed to disclose Bryce's full business background and DM's assets under management, and misrepresented Bryce's trading performance by omitting his previous four years of actual trading which were extremely negative.
4. Moreover, throughout NFA's investigation, Bryce and DM provided NFA with false and misleading information and repeatedly failed to cooperate with NFA.

### **APPLICABLE RULES**

5. NFA Compliance Rule 2-2(f) provides that no Member or Associate shall willfully submit materially false or misleading information to NFA or its agents.
6. NFA Compliance Rule 2-13(a) provides that any Member who violates any of Commodity Futures Trading Commission ("CFTC") Regulations 4.1, 4.7, 4.12 and 4.16 through 4.41 shall be deemed to have violated an NFA Requirement.
7. NFA Compliance Rule 2-5 provides, in pertinent part, that each Member and Associate shall cooperate promptly and fully with NFA in any NFA investigation, inquiry, audit or examination.

### **COUNT I**

#### **VIOLATION OF NFA COMPLIANCE RULE 2-13: USE OF A DEFICIENT DISCLOSURE DOCUMENT.**

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8. The allegations contained in paragraphs 1 through 4 and 6 are realleged as paragraph 8.
9. As part of NFA's investigation, NFA reviewed DM's DD dated April 20, 2009. According to the DD, DM intended to trade both on-exchange futures and forex.

10. During the course of NFA's investigation, NFA learned that Bryce, or entities controlled by Bryce, had power of attorney over at least 21 accounts which traded futures or forex since 2005. CFTC Regulation 4.35(b) requires that a CTA disclose the actual performance of all accounts directed by the CTA and by each of its trading principals. Despite this requirement, DM's DD included the following statement: "Neither this trading advisor nor its principal have previously directed any accounts."
11. The DD also failed to disclose that Bryce's actual trading performance was overwhelmingly negative from 2005 through 2008. In fact, on an annualized basis for those years, Bryce's rates of return were negative 16%, 29% 54% and 83%.
12. CFTC Regulation 4.35(a)(iv)(A) requires a CTA to list all assets under management ("AUM") of the CTA or other person trading the account as of the date of the DD.
13. The DD which DM and Bryce submitted to NFA listed no AUM. However, NFA obtained account statements from various futures commission merchants ("FCMs") and Forex Dealer Members ("FDMs") which indicated that Bryce and/or DM was trading accounts which had an aggregate value of approximately \$40,000 during the relevant time period.
14. In addition, CFTC Regulation 4.34(f) requires that a CTA list the business background for five years preceding the date of the DD for the CTA as well as every principal of the CTA who participates in making trading or operational decisions or supervises a person so engaged. As a result, since Bryce was the

trading principal of DM, DM was required to list his business background for the past five years.

15. The DD submitted by DM indicated that Bryce was a managing member of DM and two other companies: Financial Investment Consultants LLC and Complete Brokerage Services, Inc.
16. However, during its investigation, NFA obtained corporate records filed with the states of Nevada, Florida, Arizona and New Mexico as well as account opening paperwork provided by FCMs and FDMs which identified Bryce as a managing member in the preceding five years of several other entities (e.g., forex solicitors) that were not included in the DD.
17. Based upon other records NFA obtained, it appeared that Bryce was affiliated with several other entities, but because of his failure to cooperate, NFA could not obtain further documentation from Bryce to confirm his involvement with these other entities.
18. As alleged above, DM's DD was deficient in that it failed to disclose Bryce's full business background and DM's AUM and misrepresented Bryce's trading performance by omitting his previous four years of actual trading which were extremely negative.
19. By reason of the foregoing acts and omissions, DM and Bryce are charged with violations of NFA Compliance Rule 2-13.

## COUNT II

### **VIOLATION OF NFA COMPLIANCE RULES 2-2(f) AND 2-5: WILLFULL SUBMISSION OF MATERIALLY FALSE OR MISLEADING INFORMATION TO NFA AND FAILURE TO COOPERATE PROMPTLY AND FULLY WITH NFA IN ITS INVESTIGATION.**

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20. The allegations contained in paragraphs 1 through 5 and 7 are realleged as paragraph 20.
21. Throughout NFA's investigation of Bryce and DM, Bryce failed to cooperate in NFA's investigation and provided NFA with false and misleading information.
22. NFA initially contacted Bryce and DM via letter on November 12, 2009 to inform him that NFA was conducting a review of DM's books and records. From November 2009 through March 2010, NFA repeatedly asked Bryce and DM to produce documents and information necessary to NFA's investigation of DM and Bryce.
23. However, Bryce objected to producing to NFA many of the documents and much of the information requested by NFA. Furthermore, for certain requests, which NFA repeated several times, Bryce only produced the requested information to NFA after a significant delay (in some cases as many as two months after NFA initially made the request).
24. In addition, throughout NFA's investigation, Bryce repeatedly misled NFA. For example, NFA asked Bryce if he had ever introduced any customers to a forex counterparty, and Bryce said he had not. However, NFA obtained documentation from an FDM which indicated that Global Partners LLC, of which Bryce was both a managing member and an owner, had in fact introduced accounts to the FDM as a counterparty.

25. Furthermore, NFA repeatedly asked Bryce to disclose all futures or forex accounts that had been traded by him or any company with which he was affiliated. Although Bryce claimed to have disclosed all relevant accounts to NFA, NFA independently identified other futures and forex accounts that were traded by Bryce, and/or companies with which he was affiliated, which Bryce never disclosed to NFA.
26. As specifically alleged above, DM and Bryce failed to promptly and fully cooperate with NFA, and provided false and misleading information to NFA throughout its investigation of Bryce and DM.
27. By reason of the foregoing acts and omissions, DM and Bryce are charged with violations of NFA Compliance Rules 2-2(f) and 2-5.

### **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 to be 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  
300 South Riverside Plaza  
Suite 1800  
Chicago, Illinois 60606  
Attn: Legal Department-Docketing

E-Mail: [Docketing@nfa.futures.org](mailto: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.

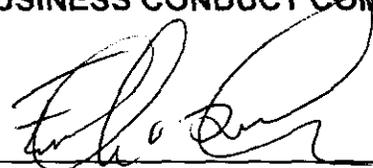
Respondents in this matter who apply for registration in any new capacity, including as

an AP with a new sponsor, may be denied registration based on the pendency of this proceeding.

Pursuant to the provisions of 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**

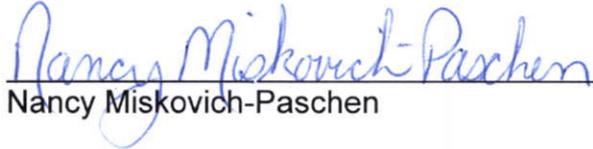
Dated: 10-27-10

By:   
Chairperson

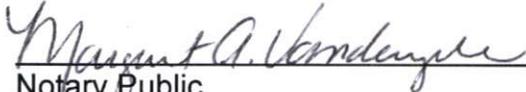
**AFFIDAVIT OF SERVICE**

I, Nancy Miskovich-Paschen, on oath state that on October 27, 2010, I served a copy of the attached Complaint, by sending such copy in the United States mail, first-class delivery, and by overnight mail, in envelopes addressed as follows:

Diligent Management LLC  
8174 Las Vegas Boulevard South  
#109-246  
Las Vegas, NV 89123  
Attn: Scott L. Bryce

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

Subscribed and sworn to before me  
on this 27th day of October 2010.

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

