NATIONAL FUTURES ASSOCIATION BEFORE THE BUSINESS CONDUCT COMMITTEE

In the Matter of:	OCT 1 3 2005
COMMODITY INVESTMENT GROUP, INC. (NFA ID #307484),	general counsel's offic
STEVEN P. BECKER (NFA ID #346059),)
PAUL J. PARADIS (NFA ID #325218),)) NFA Case No. 05-BCC-011
HINGO NAGEL (NFA ID #340339),)))
R. KEVIN MONK (NFA ID #310495),)))
JOHN R. WRIGHT (NFA ID #310335),	
LINDA R. KUHNEY (NFA ID #293364),)))
and)
JANELLE M. BREIG (NFA ID #311077),)))
Respondents	<i>)</i>

ANSWER TO COMPLAINT

Respondents Commodity Investment Group, Inc. ("CIG"), Steven P. Becker ("Becker"), Paul J. Paradis ("Paradis"), Hingo Nagel ("Nagel"), R. Kevin Monk ("Monk"), John R. Wright ("Wright"), Linda R. Kuhney ("Kuhney"), and Janelle M. Breig ("Breig") (collectively, "Respondents") hereby respond to the allegations of the Complaint issued by the National Futures Association's ("NFA") Business Conduct Committee ("BCC") in the above-captioned

matter (the "Complaint") and request an oral hearing. All allegations of the Complaint are

denied unless specifically admitted herein.

ANSWER AND AFFIRMATIVE DEFENSES

BACKGROUND

CIG became an Introducing Broker ("IB") and NFA Member in February 2001. Kuhney

and Breig are the owner and president of CIG, respectively. CIG provides services to people

who are interested in trading exchange-traded commodity options. CIG endeavors to diligently

conduct its business activities in accordance with the Commodity Exchange Act ("CEA"), and

the rules and regulations promulgated by the Commodity Futures Trading Commission and

NFA, and all other regulatory requirements.

In order to become a customer of CIG, every prospect is required to complete CIG's

account-opening documents, which includes an account application, risk disclosure forms, a

document entitled "For Our Mutual Protection," and a commission and fee disclosure form. The

very first page of CIG's account-opening documents, which follows the table of contents and

instructions for applying for an account, is a Risk Disclosure Statement for Futures and Options

("Risk Disclosure Statement"), states:

THIS BRIEF STATEMENT DOES NOT DISCLOSE ALL OF THE RISKS AND OTHER SIGNIFICANT ASPECTS OF

TRADING IN FUTURES AND OPTIONS. IN LIGHT OF THE RISKS, YOU SHOULD UNDERTAKE SUCH TRANSACTIONS ONLY IF YOU UNDERSTAND THE

NATURE OF THE CONTRACTS (AND CONTRACTUAL RELATIONSHIPS) INTO WHICH YOU ARE ENTERING AND THE EXTENT OF YOUR EXPOSURE TO RISK.

TRADING IN FUTURES AND OPTIONS IS NOT SUITABLE FOR MANY MEMBERS OF THE PUBLIC.

YOU SHOULD CAREFULLY CONSIDER WHETHER TRADING IS APPROPRIATE FOR YOU IN LIGHT OF

YOUR EXPERIENCE, OBJECTIVES, FINANCIAL

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RESOURCES AND OTHER RELEVANT CIRCUMSTANCES.

See Exhibit A at 3. (emphasis in original). The Risk Disclosure Statement also states:

2. RISK-REDUCING ORDERS OR STRATEGIES.

THE PLACING OF CERTAIN ORDERS (e.g. "STOP LOSS" ORDERS, WHERE PERMITTED UNDER LOCAL LAW, OR "STOP LIMIT" ORDERS) WHICH ARE INTENDED TO LIMIT LOSSES TO CERTAIN AMOUNTS MAY NOT BE EFFECTIVE BECAUSE MARKET CONDITIONS MAY MAKE IT IMPOSSIBLE TO EXECUTE SUCH ORDERS. STRATEGIES USING COMBINATIONS OF POSITIONS, SUCH AS "SPREAD" AND "STRADDLE" POSITIONS MAY BE AS RISKY AS TAKING SIMPLE "LONG" OR "SHORT" POSITIONS.

Id. at ¶2. (emphasis added).

VARIABLE DEGREE OF RISK.

TRANSACTIONS IN OPTIONS CARRY A HIGH DEGREE OF RISK. PURCHASERS AND SELLERS OF OPTIONS SHOULD FAMILIARIZE THEMSELVES WITH THE TYPE OF OPTION (i.e. PUT OR CALL) WHICH THEY CONTEMPLATE TRADING AND THE ASSOCIATED RISKS. YOU SHOULD CALCULATE THE EXTENT TO WHICH THE VALUE OF THE OPTIONS MUST INCREASE FOR YOUR POSITION TO BECOME PROFITABLE, TAKING INTO ACCOUNT THE PREMIUM AND ALL TRANSACTION COSTS . . . IF THE PURCHASED OPTIONS EXPIRE WORTHLESS, YOU WILL SUFFER A TOTAL LOSS OF YOUR INVESTMENT WHICH WILL CONSIST OF THE OPTION PREMIUM PLUS TRANSACTION COSTS.

Id. at ¶3. (emphasis added).

The Risk Disclosure Statement also instructs prospects to obtain a clear explanation of all commissions fees and other charges for which they will be liable before they begin to trade because those charges will affect their net profit (if any) or increase their loss. *Id.* at 4, ¶7.

Additionally, the Customer Agreement contained in CIG's account-opening documents

includes a risk disclosure, which requires every prospect to acknowledge their willingness and

ability to sustain all losses incurred with trading their account. It states:

24. RISK ACKNOWLEDGEMENT. Customer acknowledges that investments and trading in futures contracts are speculative,

involve a high degree of risk and are suitable only for persons

who can assume risk of loss in excess of their margin deposits . . . Customer recognizes that guarantees of profit or limitations of loss

are **impossible** in futures trading. Customer acknowledges that he

or she has received no such guarantees from ICC or others, and

if such promises have been made he or she is **not** entering into this

agreement in reliance on any such guarantees. Customer agrees that he or she is responsible for making an independent evaluation

of any trading recommendations or suggestions by ICC, its

introducing brokers or their agents . . .

Id. at 10, ¶24. (emphasis added).

CIG's account-opening documents also contains an Additional Risk Disclosure for

prospects who: (1) have no prior commodities, futures or commodity options trading experience;

(2) have an annual income of less than \$25,000 or a net worth of less than \$50,000; (3) are

considering investing retirement funds; or (4) are 65 years of age or older. Id. at 18. The

Additional Risk Disclosure cautions these prospects that "commodity trading is considered a

risky form of investment" and that they could "sustain a total loss of all funds that [they] deposit

with [their] broker." Id. The Additional Risk Disclosure further informs these prospects that

when the term "limited risk" is mentioned in connection with buying options, it means that they

could lose the "entire option investment." Id.

In addition to the above, CIG requires prospects whose application reflects either an

income or a net worth of less than \$50,000 to execute an Additional Risk Disclosure. See

Exhibit B. The Additional Risk Disclosure warns these prospects that futures and options

trading is considered a "risky form of investment" and they must realize that they could sustain a

"total loss" of all funds deposited with their broker. *Id.*

Every prospect of CIG is required to execute a Notification of Fees and Charges, which

fully explains the commissions and fees applicable to trading commodity options through CIG.

See Exhibit C. The Notification of Fees and Charges states that CIG's commissions are \$200 for

options contracts with a premium cost of \$600 and over, and 30% of the premium cost for

options contracts with a premium cost of \$599 and less. Id. The Notification of Fees and

Charges also states that transaction fees and floor brokers charges are limited to \$45 per options

contract. Id. While these charges are CIG's standard commission rates, CIG does allow

customers to trade their accounts at a reduced commission rate of \$100 per commodity options

contract.

CIG also requires its prospects to execute a document entitled, "For Our Mutual

Protection," which informs prospects, among other things, that they will be required to

participate in a tape-recorded interview with a compliance representative of CIG to assure CIG

that they are aware of the nature of investing in commodity options, the risks associated

therewith, the commissions charged, a trade's break-even point, and other matters relative to

opening an account with CIG. See Exhibit D. The For Our Mutual Protection document further

informs prospects that:

1. A seasonal increase in demand for a specific commodity,

such as heating oil and unleaded gasoline, in and of itself will not necessarily result in an increased value of an option

on the given commodity;

2. Past trends in futures prices of specific commodities do not

necessarily forecast current profitability of options on

futures contracts of those commodities;

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- 3. Currently known market news does not necessarily mean that you will make money by trading through CIG, as currently known market news is usually already factored in the underlying futures price, as well as the option value;
- 4. Except possibly for the in-the-money options, a rise in the price of the underlying futures contract does not typically correlate on a one-to-one ratio with a rise in the price of an option on that futures contract;
- 5. Stop loss orders are not always effective in limiting the risk of loss;
- 6. Diversification of option positions does not necessarily limit the risks of loss or increase profit potential for each option position purchased; and
- 7. Under certain market conditions, you may find it difficult or impossible to liquidate a position since market conditions on the Exchange where the order is placed may make it impossible to execute the liquidation of a position.

Id. The For Our Mutual Protection document also states:

No account executive or other representative of CIG is authorized to make any statement or representation at variance with, or which tends to minimize or negate, any or all of the above statements. Similarly, no account executive or other representative of CIG can guarantee or assure you that your account will be profitable. If any account executive or other representative of CIG does so, do not rely upon such statement or representation and advise CIG's Compliance Department immediately.

Id. (emphasis added). The For Our Mutual Protection document further informs prospects that their account executive will provide them with mathematical examples of how a proposed option positions will increase in value if the market moves in a projection fashion, but no representation is permitted, and the customers should not infer, that any past or current client of CIG has obtained similar results as may be provided in any profit examples used. Id. (emphasis added).

CIG requires all prospects to participate in a comprehensive tape-recorded compliance

interview prior to opening their accounts. The compliance interview is designed to confirm,

among other things, that every prospect is aware of and willing to assume the risks associated

with trading commodity options, understands the commissions and fees applicable to their

account, and acknowledges that their brokers did not minimize the risks or make any promises or

guarantees of profits to them. A copy of CIG's Initial Compliance Script is attached hereto as

Exhibit E.

During the compliance interview, customers are asked to confirm that no one instructed

them how to answer the questions asked by the compliance representative, minimized the

importance of the compliance procedure, or pressured them into opening their account. Id. at 1.

The customers are required to confirm that they read and understood the account-opening

documents and answered all of the questions contained therein truthfully and accurately. Id.

The compliance interview informs each customer that commodity options are a

speculative investment in which people can and do lose money, and requires each customer to

confirm whether they understand that trading options is speculative in nature and that they could

lose all or part of their investment, including commissions. Id. at 2. The compliance interview

confirms that: (1) the customers did not borrow funds to invest in their commodity trading

accounts; (2) losing all or part of a customer's investment would not alter or change their

lifestyle in any way; and (3) customers are investing only risk capital that they could afford to

lose. Id. The compliance interview informs every customer that all future transactions must be

made only with risk capital. Id.

The compliance interview also requires each customer to confirm that no representative

of CIG had made any promises or guarantees of profit to them regarding their investments. Id.

The customers are instructed to immediately stop trading and contact a compliance officer of the

firm if they ever hear anything that sounds like a promise or guarantee because when investing in

commodities, no one can promise or guarantee anything. Id. at 3.

The compliance interview also requires each customer to state whether their broker

clearly explained the risks associated with trading commodity options and whether they were

comfortable with their broker's explanation of those risks. Id. The customers are also required

to confirm whether their broker explained, and they understood, some of the basic options

terminology such as the definition of a call, put, and strike price. Id. The compliance interview

also explains CIG's commissions and fees and requires each customer to state their

understanding of those charges. Id. at 4.

Every customer is informed that their account is non-discretionary, meaning that only the

customer has sole and complete control of their account and could authorize trades placed for

their account. Id. The customers are told to immediately contact the compliance department of

the firm for assistance if they are ever unhappy with their account executive or any aspect of

their dealings with the firm. Id.

Upon completing the compliance interview, CIG's customers are told that their answers

to the compliance questions will apply to all future trades placed for their accounts through the

firm. Id.

Customers then proceed to authorize their initial trade. Id. During this process, CIG

discusses the purpose and use of stop loss orders with its customers and informs them that stop

loss orders are an attempt to limit losses, but do not guarantee that a loss will be limited to the

exact amount placed on an order. Id. at 5.

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CIG's customers are also told that in an option transaction, the market must move in the

customers' favor within the specified period of time for the option to be profitable. Id. at 6. CIG

instructs its customers not to authorize a trade if they do not understand the trade or do not agree

with their brokers' recommendation. Id.

CIG provides its customers with the opportunity to ask questions in the event that they do

not understand something. Id. CIG asks its customers whether their account executives had

many any representations to them that contradict what is discussed during the compliance

interview. Id. CIG informs its customers to contact CIG if they have any questions concerning

their account statements. Id. at 7.

In addition to authorizing the initial trade during a tape-recorded conversation, CIG

requires its customers to authorize each subsequent trade placed for their accounts during tape-

recorded conversations. A copy of CIG's trade authorization script is attached hereto as Exhibit

F. During the trade-authorization process, CIG provides its customers with the details of their

trades and obtains their authorization to place them. Id. CIG's customers are provided with the

approximate cost of each options contract being purchased, including the commissions and fees.

Id.

If CIG's customers desire to invest additional funds in their account, they are required to

confirm that those funds are not borrowed, but are purely risk capital. Id. CIG informs these

customers that they could lose all or part of the additional funds invested in their accounts, and

confirms that if that were to occur, it would not change the customers' lifestyle in any way. Id.

Throughout the compliance interview and trade authorization process, CIG's customers

are provided with opportunities to ask questions and express any dissatisfaction or concerns with

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respect to their accounts. CIG does this so that every customer could openly express their

experiences trading with the firm.

RESPONSE TO COUNT I OF THE COMPLAINT

I. Roy Chesney

NFA alleges that in 2004, Becker made misleading and deceptive sales solicitations on

behalf of CIG to Roy Chesney ("Chesney"). NFA alleges that Becker's alleged statements and

overall solicitations to Chesney were deceptive and misleading in that they contained a false

statement (i.e., that Becker himself was investing in options); suggestions that well-known

current events would move the markets in the future when such events had already been factored

into the market; and a representation that Becker and CIG's customers were making money

when, in fact, most were losing money. NFA alleges that Becker's solicitations to Chesney gave

a distorted and misleading impression of the profit potential and risk of loss associated with

options and made it appear that large profits were easily attainable trading options through CIG,

which was untrue.

Respondents deny these allegations. Prior to opening his account with CIG, Chesney and

Becker been friends for over 20 years. Becker contacted Chesney to inquire whether he would

be interested in opening an account with CIG to trade the commodities markets. Becker

explained the mechanics of and risks associated with trading commodity options to Chesney.

Chesney told Becker that he had traded commodities in the past and was well-aware of the risks

inherent in those markets.

Becker explained to Chesney that if he opened an account with CIG, his account would

be non-discretionary, meaning that no trades could be placed or contracts liquidated for his

account without his authorization. Becker informed Chesney that although he would provide

him with good-faith trading advice and recommendations, Chesney was solely responsible for

making all trading decisions for his account. Becker also explained the commissions and fees

associated with trading commodity options through CIG. After considering all of this

information. Chesney decided to open an account with CIG and completed CIG's account-

opening documents and participated in CIG's detailed compliance interview. See Chesney's

Account-Opening Documents attached as Exhibit G hereto.

On his account application, Chesney stated that he was the president of Star Brite

Waterproofing, and that he had a gross annual income of \$150,000, a net worth of \$500,000, and

a liquid net worth of \$50,000. Id. Chesney also stated that he had prior investment experience in

stocks, commodity futures and options, stock options, and mutual funds. Id.

Chesney traded his account from July 29, 2004 through January 25, 2005. Throughout

this time. Becker provided Chesney with good-faith trading advice and recommendations. Each

time that Becker recommended a trade to Chesney, he discussed the details of the trade and its

associated risks. When Chesney decided to proceed with a trade recommendation, he and

Becker selected the strike price and expiration date for the trade. Becker provided Chesney with

a breakdown of the cost of each trade, including the premium, commissions, and fees. Becker

also informed Chesney of the breakeven point associated with each trade. Undoubtedly,

Chesney possessed sufficient information to allow him to make educated and informed decisions

with respect to trading his account.

Chesney authorized each trade placed for his non-discretionary account during tape-

recorded conversations with CIG. At all times, Becker remained in contact with Chesney and

kept him apprised of the developments in the commodities markets in which he traded and the

liquidating value of his account. Unfortunately for Chesney, the commodities markets in which

he traded did not move in his favor, and his account ultimately suffered losses. Chesney's

losses, however, were caused by market forces over which neither CIG nor Becker had any

control.

Despite NFA's contention otherwise, Becker never stressed to Chesney how the effects

of the hurricane season would drive up the price of orange juice since the crops would be

destroyed, nor did he emphasize the effect that the cold winter weather would have on heating oil

prices. Becker is fully aware that well-known current events do not necessarily result in an

increase in the value of an option because the commodities markets have already factored these

events into the price of the options. Becker, therefore, does not rely upon such information as

the sole basis for providing a customer with a trade recommendation.

On or about September 7, 2004, Becker and Chesney discussed the possibility of

purchasing commodity options contracts in the orange juice market. Chesney told Becker that he

knew a woman who worked for an agricultural company in central Florida and she had advised

him that orange juice trees had been damaged by the hurricanes. According to Chesney, this

woman recommended that he purchase call options contracts in the orange juice market. Becker

explained to Chesney that well-known current events, such as the damage to crops by hurricanes,

do not necessarily result in an increase in the value of an option because the commodities

markets have already factored these events into the price of the options. Becker told Chesney

that the orange juice market could move in any direction and warned him that if the market did

not move sufficiently in his favor, he could lose all or part of his investment. Chesney informed

¹ Tellingly, NFA's written findings of its audit of CIG did not contain these allegations, as well as other allegations contained in the Complaint. Indeed, if NFA believed that such allegations were serious and credible, NFA would have included them in its written findings of its audit of CIG and provided CIG with an opportunity to respond to

them.

Becker that he was well-aware of the risks and believed that the orange juice market would rise

and therefore wanted to purchase call options contracts in the orange juice market.

Becker never emphasized the effect that the cold winter weather would have on heating

oil prices. Rather, when Becker provided Chesney with good-faith trading advice to purchase

commodity options in the heating oil market, he explained that seasonal factors, such as cold

winter weather, do not necessarily result in an increase in the value of an option because the

commodities markets have already factored these factors into the price of the options. Becker's

trade recommendations to purchase heating oil contracts were based upon several factors

affecting the heating oil market at the time of his recommendations, and not solely on the cold

winter weather.

Becker never told Chesney that his other clients were making money. In fact, Becker

never discussed the performance of his other customers' accounts with Chesney, nor did he state

or imply to Chesney that his other clients' accounts were performing favorably. Rather, Becker

always disclosed the risks associated with trading commodity options to Chesney and ensured

that Chesney understood, for each trade recommended, that he could lose all or part of his

investment if the commodities markets did not move sufficiently in his favor. Indeed, Chesney

confirmed, both orally and in writing, that he was aware of the fact that commodity options are

very risky investments in which people can and do lose money.

Becker denies telling Chesney that he, himself, was also investing in the same positions

as Chesney. During one of Chesney's conversations with Becker, Chesney asked Becker

whether he had ever traded commodity options. Becker informed Chesney that his wife had an

account with CIG. Becker, however, did not tell Chesney that his wife was investing in the same

positions as those being recommended to Chesney.

For the reasons stated above, CIG and Becker deny that Becker's solicitations to Chesney

gave a distorted and misleading impression of the profit potential and risk of loss associated with

options and made it appear that large profits were easily attainable trading options through CIG.

II. James Giblin

NFA alleges that between July and November 2003, Paradis made misleading and

deceptive statements to James Giblin ("Giblin"). NFA alleges that Paradis' alleged statements

and overall solicitations to Giblin were deceptive and misleading in that they exaggerated the

profit potential and downplayed the risk of loss associated with options, and made it appear that

large profits were easily attainable trading options through CIG when, in fact, most of CIG's

customers lost money. NFA also alleges that Paradis used high-pressure sales tactics when he

urged Giblin to make an immediate investment and not to wait because "now is the time to

invest."

Respondents deny these allegations. Paradis contacted Giblin to inquire whether he

would be interested in opening an account with CIG to trade the commodities markets. Paradis

explained the mechanics of and risks associated with trading commodity options to Giblin.

Paradis told Giblin that if he opened an account with CIG, his account would be non-

discretionary, meaning that no trades would be placed or contracts liquidated for his account

without his authorization. Paradis informed Giblin that although he would provide him with

good-faith trading advice and recommendations, Giblin was solely responsible for making all

trading decisions for his account. Paradis explained the commissions and fees associated with

trading commodity options through CIG. After considering all of this information, Giblin

decided to open an account with CIG and completed CIG's account-opening documents and

participated in CIG's detailed compliance interview. See Giblin's Account-Opening Documents

attached as Exhibit H hereto.

On his account application, Giblin stated that he was a police lieutenant, and that he had

an annual income of \$100,000, a net worth of \$250,000, and a liquid net worth of \$100,000. Id.

Giblin also stated that he had prior investment experience in stocks. *Id.*

Giblin traded his account from July 25, 2003 through November 7, 2003. Giblin invested

\$3,000 in his account and used those funds to purchase four call options contracts in the heating

oil market. When Paradis recommended this trade to Giblin, he discussed the details of the trade

and its associated risks. After Giblin decided to proceed with Paradis' trade recommendation, he

and Paradis selected the strike price and expiration date for the trade. Paradis provided Giblin

with a breakdown of the cost of the trade, including the premium, commissions, and fees.

Paradis also informed Giblin of the breakeven point associated with the trade. Giblin clearly

possessed sufficient information to allow him to make an educated and informed decision with

respect to the single trade placed for his account.

Giblin authorized the sole trade placed for his non-discretionary account during a tape-

recorded conversation with CIG. At all times, Paradis remained in contact with Giblin and kept

him apprised of the developments in the heating oil market and the liquidating value of his

account. Unfortunately for Giblin, the heating oil market did not move in his favor, and his

account ultimately suffered losses. Giblin's losses, however, were caused by market forces over

which neither CIG nor Paradis had any control.

Contrary to NFA's assertion, Paradis never recommended that Giblin invest in Euro

dollar options. In fact, the only commodity market that Paradis ever discussed with Giblin was

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the heating oil market. Paradis, therefore, could not have told Giblin that there was big money to

be made in the Euro, or that Giblin could double or triple his investment in one to two months.

Paradis denies having stressed to Giblin that "now is the time to invest," or that he

pressured Giblin to open an account with CIG or place any trades. Paradis had several lengthy

discussions with Giblin about the mechanics of and risks associated with trading commodity

options. During those conversations, Paradis discussed the heating oil market with Giblin and

explained how he could potentially profit through trading commodity options if the heating oil

market moved sufficiently in a certain direction within a specified period of time. Notably,

Giblin complimented Paradis on his thorough explanations of the mechanics of and risks

associated with trading commodity options and thanked him for taking his time to explain this

information to him.

Giblin then told Paradis that he wanted to open an account with CIG and requested that

Paradis provide him with CIG's account-opening documents. Giblin informed Paradis that

because he was a police officer, he was difficult to get a hold of him and asked Paradis to

recommend the most convenient way for him to receive CIG's account-opening documents.

Paradis told Giblin that the most convenient way for him to receive these documents would be by

using Federal Express. Giblin agreed to have CIG's account-opening documents sent to him via

Federal Express, and informed Paradis that he would return those completed forms to CIG using

the same method. Indeed, during the tape-recorded compliance interview, Giblin stated that he

was not pressured into opening an account with CIG.

Paradis denies that he downplayed the risk of loss and made it appear that large profits

were easily attainable trading options through CIG. Paradis thoroughly explained the risks

associated with trading the commodities markets to Giblin and ensured that Giblin understood

that if the heating oil market did not move sufficiently in his favor within the specified period of

time, he could lose all or part of his investment. Indeed, Giblin himself acknowledged, both

orally and in writing, that he completely understood the risks associated with trading commodity

options and that Paradis did not state anything to him that contradicted those risks.

For the reasons stated above, CIG and Paradis deny that Paradis' solicitations to Giblin

exaggerated the profit potential, downplayed the risk of loss associated with options trading, and

made it appear that large profits were easily attainable trading options through CIG, and that

Paridis used high-pressure sales tactics on Giblin.

III. Lloyd Larsen

NFA alleges that from April through August of 2004, Nagel and Wright made misleading

and deceptive solicitations to Lloyd Larsen ("Larsen"). NFA alleges that Nagel and Wright's

alleged statements and overall solicitations to Larsen were deceptive and misleading in that they

suggested that historic price moves in corn were likely to be repeated and that well-known

current events would move the markets in the future, when such events had already been factored

into the market. NFA also alleges that Nagel and Wright represented to Larsen that CIG's

customers were making money when, in fact, most were losing money. NFA alleges that Nagel

and Wright's solicitations to Larsen gave a distorted and misleading impression of the profit

potential and risk of loss associated with options and made it appear that large profits were easily

attainable trading options through CIG.

Respondents deny these allegations. Nagel contacted Larsen to inquire whether he would

be interested in opening an account with CIG to trade the commodities markets. Nagel explained

the mechanics of and risks associated with trading commodity options to Larsen. Larsen told

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Nagel that he had traded commodities in the past and was well-aware of the risks inherent in

those markets.

Nagel explained to Larsen that if he opened an account with CIG, his account would be

non-discretionary, meaning that no trades could be placed or contracts liquidated for his account

without his authorization. Nagel informed Larsen that although he would provide him with

good-faith trading advice and recommendations, Larsen was solely responsible for making all

trading decisions for his account. Nagel also explained the commissions and fees associated

with trading commodity options through CIG. After considering all of this information, Larsen

decided to open an account with CIG and subsequently completed CIG's account-opening

documents and participated in CIG's detailed compliance interview. See Larsen's Account-

Opening Documents attached as Exhibit I hereto.

On his account application, Larsen stated that he was a scientist for the U.S. Army, and

that he had an annual income of \$90,000, a net worth of \$300,000, and a liquid net worth of

\$15,000. Id. Larsen also stated that he had six years of investment experience in trading options

and 10 years of investment experience trading stocks. *Id.*

Larsen traded his account from May 3, 2004 through August 18, 2004. Throughout this

time, Nagel and Wright provided Larsen with good-faith trading advice and recommendations.

Each time that Nagel and Wright recommended a trade to Larsen, they discussed the details of

the trade and its associated risks. When Larsen decided to proceed with a trade recommendation,

he and his broker selected the strike price and expiration date for the trade. Larsen's brokers

provided him with a breakdown of the cost of each trade, including the premium, commissions,

and fees. Larsen's brokers also informed him of the breakeven point associated with each trade.

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There is no question that, Larsen possessed sufficient information to allow him to make educated

and informed decisions with respect to trading his account.

Larsen authorized each trade placed for his non-discretionary account during tape-

recorded conversations with CIG. At all times, Nagel and Wright remained in contact with

Larsen and kept him apprised of the developments in the commodities markets in which he

traded and the liquidating value of his account. Unfortunately for Larsen, the commodities

markets in which he traded did not move in his favor, and his account ultimately suffered losses.

Larsen's losses, however, were caused by market forces over which neither CIG, Nagel nor

Wright had any control.

Nagel never told Larsen that he could make him between 20-30%, but probably closer to

a 50% profit. Rather, when Nagel provided Larsen with good-faith trade recommendations, he

explained the potential profit associated with each trade if the commodity market moved

sufficiently in Larsen's favor. Nagel always cautioned Larsen that if the market did not move

sufficiently in his favor, he could lose all or part of his investment. Larsen, who was an

experienced commodities trader, was well-aware that when trading the commodities markets, no

one could make any promises or guarantees of profits, and he confirmed this both orally and in

writing.

Nagel denies having told Larsen that the markets were trading in a "very special

situation" or that it was the "best opportunity that had existed in the oil markets in years," citing

the oil problems in Iraq. Nagel further denies having told Larsen that the general state of the

economy and war were going to increase the price of oil. Nagel never cited the oil problems in

Iraq as the sole basis for recommending a trade in those markets, nor did he state or imply that a

better opportunity for profit existed as a result of this event. Nagel is fully aware that well-

known current events, such as the oil problems in Iraq, do not necessarily result in an increase in

the value of an option because the commodities markets have already factored these events into

the price of the options. Nagel, therefore, does not rely upon such information as the sole basis

for providing a customer with a trade recommendation.

Nagel denies having claimed to Larsen that all of his customers do well over the long

term, or that if Larsen stuck with him, he would win big like all of his customers. Nagel did not

discuss the trading results of his other customers' accounts with Larsen. Nagel always cautioned

Larsen of the substantial risks associated with trading commodity options.

discussed the trading results of any of his other customers' accounts. Surely as an experienced

commodities trader. Larsen was undoubtedly aware that most people who invest in commodity

options ultimately lose money. Indeed, Larsen specifically acknowledged his understanding of

the substantial risks associated with trading commodity options during the tape-recorded

compliance interview and confirmed that Nagel did not make any statements that contradicted

those risks.

Wright denies having told Larsen that he would get him in and out of a commodity in two

weeks with a 50% return like the rest of his clients. In fact, Wright never discussed the trading

results of any of his other customers' account with Larsen. Wright provided Larsen with good-

faith trading advice and recommendations, and always ensured that Larsen understood the risks

involved with each trade. As an experienced commodity options trader, Larsen knew that it was

impossible for anyone to make promises or guarantees of profits with respect to trading the

commodities markets.

Nagel and Wright deny that they told Larsen that the opportunity to make a profit in corn

was the greatest since World War II, or that Larsen could make a 200% profit in 10 days as in

the past when market conditions were the same. When Nagel and Wright provided Larsen with

good-faith recommendations to trade the corn market, they explained the developments in the

corn market and the reasons why they were recommending the trade. Nagel and Wright

informed Larsen that in order for him to profit on a trade in the corn market, the market had to

move sufficiently in his favor within the specified period of time. If not, Larsen could lose all or

part of his investment. Larsen clearly understood this. Neither Nagel nor Wright used an absurd

profit example such as Larsen making a 200% profit in 10 days. Even if such a statement was

made, which Respondents deny, an experienced commodities trader like Larsen would have no

justification for relying upon it.

Nagel and Wright deny that they told Larsen that if he wanted to hit a homerun, he had to

keep swinging for the fences. Nagel and Wright also deny telling Larsen that if he made enough

trades, he would eventually hit a big one. Nagel and Wright provided Larsen with good-faith

trading advice and recommendations, and always ensured that Larsen understood the risks

associated with each trade. After considering Nagel and Wright's trade recommendations and

the risks associated therewith, Larsen made all trading decisions for his non-discretionary

account. As an experienced commodities trader, Larsen undoubtedly knew that most people who

invest in commodity options ultimately lose money.

Nagel denies having employed a high-pressure approach in his solicitation of Larsen by

telling him that if he did not invest now, he would miss a great opportunity. Nagel simply

provided Larsen with good-faith trading advice and recommendations. Larsen made all trading

decisions for his non-discretionary account, including when to enter and exit the commodities

markets. Larsen confirmed during a tape-recorded conversation with CIG that Nagel did not use

any pressure in soliciting him to open an account or place any trades for his account.

For the reasons stated above, CIG, Nagel and Wright deny that Nagel and Wright's

solicitations to Larsen suggested that historic price moves in corn were likely to be repeated, that

well-known current events would move markets in the future, that CIG's customers were making

money, and made it appear that large profits were easily attainable trading options through CIG.

IV. Nick Antonov

NFA alleges that in 2004, Nagel and Monk made misleading and deceptive solicitations

to Nick Antonov ("Antonov"). NFA alleges that Nagel and Monk's alleged statements and

overall solicitations to Antonov were deceptive and misleading in that they suggested that well-

known current events would move the markets in the future, when such events had already been

factored into the market, and they represented that CIG's customers were making money when,

in fact, most were losing money. NFA alleges that Nagel and Monk's solicitations to Antonov

gave a distorted and misleading impression of the profit potential and risk of loss associated with

options and made it appear that large profits were easily attainable trading options through CIG,

which was untrue.

Respondents deny these allegations. Jeff Gordon ("Gordon") an AP of CIG contacted

Antonov to inquire whether he would be interested in opening an account with CIG to trade the

commodities markets. Gordon explained the mechanics of and risks associated with trading

commodity options to Antonov. Gordon informed Antonov that if he opened an account with

CIG, his account would be non-discretionary, meaning that no trades could be placed or

contracts liquidated for his account without his authorization. Gordon informed Antonov that

although he would provide him with good-faith trading advice and recommendations, Antonov

was solely responsible for making all trading decisions for his account. Gordon also explained

the commissions and fees associated with trading commodity options through CIG. After

considering all of this information, Antonov decided to open an account with CIG and completed

CIG's account-opening documents and participated in CIG's detailed compliance interview. See

Antonov's Account-Opening Documents attached as Exhibit J hereto.

On his account application, Antonov stated that he was an insurance agent, and that he

had an annual income of \$150,000, a net worth of \$500,000, and a liquid net worth of \$100,000.

Id. Antonov also stated that he had seven years of investment experience in stocks. Id.

Antonov traded his account from August 9, 2004 through October 26, 2004. Throughout

this time, Gordon, Nagel and Monk provided Antonov with good-faith trading advice and

recommendations. Each time that Gordon, Nagel and Monk recommended a trade to Antonov,

they discussed the details of the trade and its associated risks. When Antonov decided to

proceed with a trade recommendation, he and his brokers selected the strike price and expiration

date for the trade. Gordon, Nagel and Monk provided Antonov with a breakdown of the cost of

each trade, including the premium, commissions, and fees. They also informed Antonov of the

breakeven point associated with each trade. Undoubtedly, Antonov possessed sufficient

information to allow him to make educated and informed decisions with respect to trading his

account.

Antonov authorized each trade placed for his non-discretionary account during tape-

recorded conversations with CIG. At all times, Gordon, Nagel and Monk remained in contact

with Antonov and kept him apprised of the developments in the commodities markets in which

he traded and the liquidating value of his account. Unfortunately for Antonov, the commodities

markets in which he traded did not move in his favor, and his account ultimately suffered losses.

Antonov's losses, however, were caused by market forces over which neither CIG, Gordon,

Nagel nor Monk had any control.

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Nagel denies that he held Monk out to be an "expert" in the energy markets. Rather,

Nagel told Antonov that Monk was a senior broker who had more experience in the energy

markets.

Monk denies having told Antonov that his account was making good returns and that he

should invest more money with CIG to increase the chances of additional profits. On August 18.

2004, Monk informed Antonov that his crude oil positions were in profits and recommended that

he consider liquidating those contracts to capture his profits. Antonov agreed with Monk's

recommendation and sold his crude oil positions at a 34% profit. Monk did not tell Antonov that

he should invest more money with CIG to increase the chances of additional profits. Instead,

Monk told Antonov that he could either take his profits home or reinvest them in the

commodities markets. Monk cautioned Antonov that past performance was not indicative of

future results, and that Antonov could lose any funds he invested in the commodities markets.

Antonov confirmed this during a tape-recorded conversation with CIG.

Nagel denies that he employed a high-pressure approach in his sales solicitation of

Antonov, or that he persisted in trying to persuade Antonov to open an account with CIG by

calling him every day for approximately a month, sometimes two to three times per day. As

stated above, Gordon was the AP who initially solicited Antonov to open an account with CIG.

Therefore, Nagel did not engage in the conduct described herein.

For the reasons stated above, CIG, Nagel and Monk deny that Nagel and Monk's

solicitations to Antonov suggested that well-known current events would move the markets in

the future, that CIG's customers were making money, and made it appear that large profits were

easily attainable trading options through CIG.

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RESPONSE TO COUNT II OF THE COMPLAINT

NFA alleges that CIG, Paradis, Kuhney and Breig failed to detect and/or prevent the

violative sales tactics alleged in paragraphs 12 through 27 of the Complaint and, therefore, failed

to diligently supervise their employees in the conduct of their commodity futures activities.

Respondents deny these allegations. CIG has adequate supervisory procedures in place

to monitor the sales solicitations of its APs and detect any regulatory violations. CIG's

management randomly monitors the firm's sales solicitations at least three times per week via a

barge phone system through which the brokers do not know that they are being monitored. In

addition, management walks around the floor on a daily basis to listen to live conversations

between the firm's brokers and prospect and existing customers of the firm. CIG also pays an

independent outside consultant, Dennis Stahr of Investment Reference Services, to audit the firm

annually to ensure that CIG and its brokers are in compliance with all industry rules and

regulations. As part of his audit procedure, Mr. Stahr monitors AP sales solicitations through

CIG's barge phone system. In addition, CIG conducts daily meetings with its brokers to discuss,

among other things, compliance issues.

Prior to NFA's recent audit, CIG has been the subject of three prior audits by NFA and

has never been cited for deficient sales solicitations or failing to supervise the firm's APs. Nor

have Mr. Stahr's audits of the firm ever revealed any deficiencies with CIG's sales practices or

supervision.

CIG has received several letters from customers of the firm who have had pleasurable

experiences with their brokers. See Exhibit K hereto. These customers all confirmed that their

brokers were very courteous and professional, have always disclosed the risks of trading

commodity options, and have never made any promises or guarantees of profits. Id. Certainly, if

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CIG requested letters from other customers of the firm asking them to explain their experience

with CIG, CIG would receive many more letters similar to those attached hereto. Obviously, a

firm that has failed to supervise its APs would not be able to receive a single letter commending

their experience with their broker.

After NFA's audit of CIG, the firm received numerous telephone calls from customers

who informed CIG that they were contacted by NFA representatives. According to these

customers, NFA's representatives told them that CIG has had many complaints filed against it

and NFA was investigating CIG's practices. If NFA's true intention was to obtain truthful

comments from customers of CIG regarding their experiences at CIG, NFA representatives

should not have prefaced their introduction to CIG's customers with such a statement,

particularly when CIG has not received a substantial number of customer complaints. CIG

contacted many of the customers named in NFA's letter dated April 14, 2005, which summarized

NFA's audit of CIG, and all of these customers disagreed with the statements that NFA has

attributed to them. If NFA were to look at its audits of CIG over the last four years and the

minimal number of customer complaints that CIG has received, it would clearly see that CIG is

making every reasonable effort to supervise its APs and fully comply with NFA's standards.

RESPONSE TO COUNT III OF THE COMPLAINT

NFA alleges that CIG willingly submitted false or misleading information to NFA in that

when NFA asked the principals of CIG whether the firm used a sales script in soliciting

customers or training APs, CIG's principals responded that CIG did not use a sales script for

such purposes. NFA alleges that CIG used a sales script to solicit customers and train APs, and

the script purportedly used by CIG discussed "seasonality" and was similar in content to many of

CIG's sales solicitations.

Respondents deny these allegations. CIG did not use a sales script to solicit customers or

train its APs. To the extent that NFA has obtained a script purportedly used by CIG, CIG

requests that NFA provide it with a copy so that CIG may further address NFA's allegations.

RESPONSE TO COUNT IV OF THE COMPLAINT

NFA alleges that from July 29, 2004 to sometime in December of 2004, Becker serviced

Chesney's account and solicited him to make trades, but was not registered as an AP during

August 4, 2004 to October 27, 2004.

Respondents deny these allegations. If Becker was not registered as an AP from August

4, 2004 to October 27, 2004, NFA failed to advise CIG and/or Becker of this. On July 14, 2004,

Becker applied for registration with NFA as an AP. See NFA BASIC Report of Steven Becker

attached hereto as Exhibit L. NFA's records show that Becker's registration was pending from

August 4, 2004 through October 27, 2004, when Becker's registration was approved. Id.

Respectfully submitted:

HOMERBONNER

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused to be served via overnight mail the original and five

(5) copies of the foregoing document upon the Legal Department-Docketing of the National

Futures Association, 200 West Madison Street, Suite 1600, Chicago, IL 60606, and a true and

correct copy of the foregoing document upon Ronald V. Hirst, Esq., National Futures

Association, 200 West Madison Street, Suite 1600, Chicago, IL 60606 on this 10th day of

October, 2005.

Francisco O. Sanchez

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