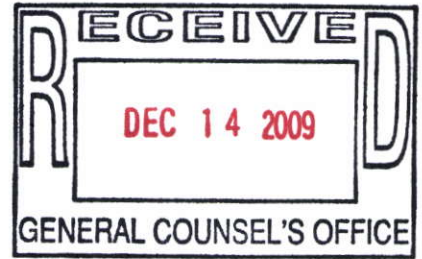


NATIONAL FUTURES ASSOCIATION
BEFORE THE
BUSINESS CONDUCT COMMITTEE



In the Matter of)
)
CARLO SCEVOLA (NFA ID #338478),) NFA Case No. 09-BCC-043
)
Respondent.)
)

ANSWER OF CARLO SCEVOLA

Carlo Scevola ("Scevola") respectfully submits this answer to the Complaint filed by the Compliance Department of the National Futures Association ("NFA").

Introduction

Scevola's business is and has always been conducted exclusively outside the United States and outside the interest and jurisdiction of US regulators. He applied for and was granted NFA membership in 2004, at a time when he was considering doing business with US residents. But that possibility never became reality. Scevola has never had a US customer. Indeed, the offering memorandum for Resolute Capital, the entity that Compliance puts at issue here, expressly requires investors to affirm that they are not US residents or citizens. Despite its lack of jurisdiction over non-US transactions with non-US customers, Compliance is pursuing this action based, it appears, entirely upon (1) unsupported and strained guilt by association and (2) hearsay from two unidentified individuals.

Compliance alleges (Comp. ¶ 14) that a firm named Lake Shore and its managing director, Phillip Baker, have been barred and indicted for misconduct. Compliance does not allege, nor could it, that Scevola has any role in that. Instead, they allege that an individual named Laurence Rosenberg, who was associated with Lake Shore, was also associated with Resolute Capital. Compliance's use of guilt by association is an unbecoming flight of fancy. It does not follow from the fact that he may have been associated with Lake Shore that Mr. Rosenberg was personally involved in whatever misconduct Lake Shore or its managing director may have engaged in; Compliance does not allege, nor could it, that any findings were made as to him. To then stretch the association from Mr. Rosenberg to Resolute Capital and then again to Scevola is an abuse of logic and process.

Apart from its inapt syllogism, Compliance offers information from two persons identified only as "an individual from the Netherlands who told NFA that he was a participant in Resolute Capital" (Comp. ¶ 20) and "an investor in Spain, who represented to NFA that, in February 2008, Scevola told him that Resolute Capital had \$110 million under management." (Comp. ¶ 19.) It is important to note the language used by Compliance. Compliance apparently has no confirmatory evidence that the unnamed Dutchman was actually a participant in Resolute Capital; rather, Compliance carefully alleges that he *told* them so. Compliance apparently has no actual confirmatory evidence that a representation was made to the unnamed Spaniard;

rather, Compliance gingerly alleges that the Spanish gentleman (or woman) *represented* that to them.

Based upon naked cynicism and hearsay, Compliance has defamed Scevola and put him to the expense of defending himself for conduct that not only is not improper but which does not implicate US markets, US customers, or US interests, and which is not the genuine subject of NFA jurisdiction. This complaint should be dismissed.

Specifically, Scevola answers the Complaint as follows:

1. At all relevant to this Complaint, Scevola was a sole proprietor commodity trading advisor ("CTA") NFA Member located in London, England.

ANSWER: Scevola admits that he is currently registered as a commodity trading advisor with the NFA, although he has attempted to withdraw that registration, since it is of no business use to him. When Scevola attempted to withdraw his registration, he was advised that he was not permitted to do so because of the pending investigation which has apparently led to this complaint.

2. Scevola became registered as a CTA NFA Member in 2004. In NFA's registration system, Scevola lists several other trade names used by this CTA, including Carlo Scevola & Partners.

ANSWER: See answer to Paragraph 1. Scevola admits that his NFA membership became effective in 2004 and that the NFA lists "Carlo Scevola & Partners", "Carlo Scevola CTA", "Carlo Scevola Capital Management", and "CS&P" on

its "BASIC" system. Except as specifically admitted, Scevola denies the allegations of paragraph 2.

3. As alleged herein, Scevola touted his NFA membership when soliciting customers on his website, yet refused to meet his obligation as an NFA Member to provide information to NFA about his operations.

ANSWER: Scevola denies that he "touted" anything. While he may have mentioned his NFA membership as a fact, it was neither a selling point nor of any particular importance to Scevola's business or to the customers with whom he did business. Except as specifically admitted, Scevola denies the allegations of paragraph 3.

4. NFA sought records and information from Scevola about two pools that he operates after learning that a director of one of these pools was an individual who had previously been affiliated with a company that operated a huge international ponzi scheme; and that Scevola had provided a prospective investor in one of these pools with information concerning the amount of the pool's assets that was dramatically different from the amount Scevola had reported to regulators.

ANSWER: Scevola acknowledges that NFA has sought records from him, but the records sought are not within in his possession, custody or control. Scevola is without sufficient information to respond to the Compliance Department's allegation that he provided information to a prospective investor, since neither the investor nor the supposedly incorrect information is identified. Except as specifically admitted, Scevola denies the allegations of paragraph 4.

5. NFA also sought records relating to Scevola's pools so it could test the dramatic performance claims that Scevola advertised for these pools and also determine if all of the participants in these pools were foreign citizens, as claimed by Scevola, or if any were U.S. citizens.

ANSWER: Scevola cannot comment on the Compliance Department's motives for requesting the information. Scevola affirmatively asserts that he has no customers who are U.S. citizens, and the cynicism of the Compliance Department aside, there is no good faith basis for the Compliance Department to suggest otherwise.

6. Scevola has refused to provide NFA with all of the records and information NFA has requested about his operations and also appears to have provided false information to NFA concerning the activities of one of his pools. As a consequence, NFA has been unable to verify Scevola's performance claims, the amount of his pools' assets, or the identity and citizenship of his pools' participants.

ANSWER: See answers to Paragraphs 3-5. Scevola denies the allegations of paragraph 6.

7. NFA Compliance Rule 2-5 provides that each Member and Associate shall cooperate promptly and fully with NFA in any NFA investigation, inquiry, audit, examination or proceeding regarding compliance with NFA requirements or any NFA disciplinary or arbitration proceeding. Each Member and Associate shall comply with any order issued by the Executive Committee, the Membership Committee, the BCC, the Appeals Committee or any NFA hearing or arbitration panel.

ANSWER: Scevola admits that the Compliance Department has accurately described the NFA Rule, but denies that he is in violation of that rule.

8. NFA Compliance Rule 2-39(a) provides, in pertinent part, that except for Members who meet the criteria in Bylaw 306(b) and Associates acting on

their behalf, Members and Associates who solicit customers, introduce customers to a counterparty, or manage accounts on behalf of customers in connection with forex transactions shall comply with Compliance Rules 2-36(b) and (c).

ANSWER: Scevola admits that the Compliance Department has accurately described the NFA Rule, but denies that he is in violation of that rule.

9. NFA Compliance Rule 2-36(b)(1) provides that no Forex Dealer Member ("FDM") or Associate of an FDM engaging in any forex transaction shall cheat, defraud or deceive, or attempt to cheat, defraud or deceive any other person.

ANSWER: Scevola admits that the Compliance Department has accurately described the NFA Rule, but denies that he is in violation of that rule.

10. NFA Compliance Rule 2-36(b)(5) provides that no FDM or Associate of an FDM engaging in any forex transaction shall willfully submit materially false or misleading information to NFA or its agents with respect to forex transactions

ANSWER: Scevola admits that the Compliance Department has accurately described the NFA Rule, but denies that he is in violation of that rule.

11. NFA Compliance Rule 2-36(c) provides that FDMs and their Associates shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of their forex business.

ANSWER: Scevola admits that the Compliance Department has accurately described the NFA Rule, but denies that he is in violation of that rule.

12. The allegations contained in paragraphs 1 through 11 are realleged as paragraph 12.

ANSWER: Scevola reavers his answers to Paragraphs 1-11.

13. NFA received information that Scevola was operating a pool called Resolute Capital Growth Fund Ltd. ("Resolute Capital"), and that Laurence M. Rosenberg -- a former principal of Lake Shore Asset Management Limited ("Lake Shore") -- was affiliated with this venture.

ANSWER: Scevola admits that he has an advisory relationship with Resolute Capital, but denies that he "operates" that pool; in fact, it is operated by independent administrators. Scevola admits that Laurence Rosenberg is affiliated with Resolute Capital. Except as specifically admitted, Scevola denies the allegations of paragraph 13.

14. NFA permanently barred Lake Shore from NFA membership; a federal court in Chicago permanently banned Lake Shore, and its managing director, Phillip Baker ("Baker"), from trading commodity futures based upon their misappropriation of more than \$11 million from participants in pools operated by Lake Shore; and a federal grand jury in Chicago indicted Baker for his role in the misappropriation of pool participants' funds.

ANSWER: Scevola has no personal knowledge but does not dispute the allegations of Paragraph 14.

15. Based on the information that a former Lake Shore principal -- Laurence Rosenberg -- was affiliated with Scevola and Resolute Capital, NFA commenced an inquiry into their operations. As part of this inquiry, NFA reviewed the websites of Scevola and Resolute Capital.

ANSWER: Scevola has no knowledge of, and makes no comment about what may or may not have motivated the Compliance Department to conduct an inquiry. Except as specifically admitted, Scevola denies the allegations of paragraph 15.

16. Scevola's website – which he maintained under the trade name "Carlo Scevola & Partners" – stated that his firm was headquartered in New York City, that its president and chief executive officer ("CEO") was Carlo Scevola, and that it maintained offices in Bradenton, Florida and in several foreign cities. The website included NFA's logo and the statement that "Carlo Scevola & Partners is a licensed Commodity Trading Advisor (CTA) member of National Futures Association (NFA) registered with the Commodity Futures Trading Commission (CFTC)."

ANSWER: Carlo Scevola & Partners is, as Compliance accurately notes, simply a trade name rather than an actual legal entity. The "Partners" part of Carlo Scevola & Partners are an international group of companies, none of which were or are US entities, and all of which are independent of one another, having no authority to represent, bind or act for any other.

Scevola is listed on the website as "President and CEO." While it is correct that he uses that title, there is no formal structure to Carlo Scevola & Partners so the title is simply a title. At the time of the filing of the Complaint - and today – the Carlo Scevola & Partners website lists no US offices. For a period of time in the past, Scevola had rented a "virtual office" in New York from a third party service which provides a mail drop and telephone answering service; Scevola still maintains a similar mail drop in Florida for exclusively personal matters. The website, which is managed by a third-party vendor, may have incorrectly listed these locations as offices of Carlo Scevola & Partners, but Scevola denies that any customer would have been or was misled in any way by that information.

Except as specifically admitted, Scevola denies the allegations of paragraph 16.

17. The website of Resolute Capital represented that Resolute Capital was an investment fund registered with the British Virgin Islands that its Chairman was Laurence Rosenberg, and that its President and CEO was Carlo Scevola, who was described as "a Commodity Trading Advisor member of National Futures Association, registered with the Commodity Futures Trading Commission " The website also included performance information for Resolute Capital from 2004 to 2008 that showed yearly returns of 15% to over 38%.

ANSWER: Scevola admits that Resolute Capital's website at some point contained the statements alleged; all of those statements were matters of fact and correctly stated; indeed, the performance information was randomly verified by NFA during an audit conducted in 2008.

18. The official records of the British Virgin Islands Financial Services Commission show that Resolute Capital was a registered company in the British Virgin Islands; that it reported assets of \$13.9 million as of the end of February 2008; and that it listed Carlo Scevola and Laurence Rosenberg as its Directors, and Carlo Scevola & Partners (CS&P), Ltd as its Manager.

ANSWER: Scevola has not seen the records referred to in Paragraph 18 and therefore can neither admit nor deny the allegations of Paragraph 18.

19. The assets which Resolute Capital reported to the British Virgin Islands Financial Services Commission — i.e., \$13.9 million as of the end of February 2008 — did not correspond with information that NFA received from an investor in Spain, who represented to NFA that, in February 2008, Scevola told him that Resolute Capital had \$110 million under management — which is a fraction of the assets that Resolute Capital reported to the British Virgin Islands Financial Services Commission.

ANSWER: Without more information about the unidentified investor from Spain, Scevola cannot comment on what that person may or may not have said. But

Scevola denies that he ever told anyone, whether someone located in Spain or any other country, that Resolute Capital had \$110 million under management. Except as specifically admitted, Scevola denies the allegations of paragraph 19.

20. In January 2009, NFA was contacted by an individual from the Netherlands who told NFA that he was a participant in Resolute Capital. According to this individual, he had received a letter from Resolute Capital informing him that Resolute Capital had lost all of its money and was closing down due to a third party broker defaulting on its obligations. The letter did not disclose the name of the defaulting broker, but indicated that a partial compensation plan had been negotiated with the defaulting broker which would result in Resolute Capital receiving monthly payments from the defaulting broker, beginning in January 2009.

ANSWER: Scevola cannot respond to allegations with respect to an unidentified individual from the Netherlands. Scevola admits that Resolute Capital informed its investors in December 2008 that it was closing the Fund and planned to distribute assets; Scevola states that the letter to investors dated December 2008, attached as Exhibit 1, is the best evidence of its contents and, except as specifically admitted, Scevola denies the allegations of paragraph 20.

21. However, in February 2009, Resolute Capital informed participants that authorities were investigating the defaulting broker, and, therefore, the defaulting broker would not be making monthly payments to Resolute Capital after all. The letter also indicated that NFA was fully informed and closely monitoring the situation — which was untrue.

ANSWER: The February 2009 Investor Letter which was sent to participants is attached as Exhibit 2; that letter is the best evidence of its contents and Scevola therefore denies the allegations of paragraph 21.

22. NFA subsequently learned that Crown Forex SA ("Crown Forex") — a Swiss firm where Resolute Capital maintained an account — had apparently experienced a financial failure. However, NFA determined that Crown Forex's financial failure was not the cause of the bulk of the losses sustained by Resolute Capital. Instead, most of Resolute Capital's losses were attributable to trading losses of approximately \$20 million it sustained in its account at Oanda Corporation ("Oanda"), a futures commission merchant ("FCM") NFA Member in Canada. According to the investor from the Netherlands, who was a participant in Resolute Capital, Scevola never disclosed to him Resolute Capital's trading losses at Oanda.

ANSWER: Crown Forex did indeed have a financial failure which caused losses to Resolute Capital. On May 19, 2009, Crown Forex was declared bankrupt by the Swiss authorities, and Resolute Capital has since filed a claim in those proceedings for \$28,691,302, comprised of \$3,920,800 relating to the original cash deposited and \$24,770,502 in damages. Except as specifically admitted, Scevola denies the allegations of paragraph 22.

23. Several months later, the investor from the Netherlands contacted NFA again. this time to report that he had received an e-mail from Scevola announcing a new fund called the "Leader Fund," that was open to new investors with a minimum subscription of \$100,000 The e-mail included, as attachments, a fact sheet for the Leader Fund and annual portfolio performance for the Leader Fund from 2004 through 2008.

ANSWER: The Leader Fund is a shell entity which has never done business. There was a contemplation of business, and certain draft materials were created and shared with a limited number of persons, but those materials were not solicitations and no business was ever conducted. Except as specifically admitted, Scevola denies the allegations of paragraph 23.

24. Based on the foregoing information, NFA sent a letter to Scevola requesting a list of Resolute Capital participants, subscription amounts, the net asset value for each participant as of September 30, 2008, and May 31, 2009, contact information for participants, and bank statements for Resolute Capital's bank accounts from January 1 to December 31, 2008. NFA also sought information about the Leader Fund.

ANSWER: Scevola admits that correspondence was exchanged between him and his attorneys; that correspondence is the best evidence of its contents, and Scevola otherwise denies the allegations of Paragraph 24.

25. On June 3, 2009, Scevola's attorney sent a letter in response to NFA's letter in which he acknowledged that Scevola was a Director of Resolute Capital but claimed that, despite being a Director, Scevola did not have access to Resolute Capital's records and, therefore, could not produce these records to NFA.

ANSWER: Scevola admits that correspondence was exchanged between him and his attorneys; that correspondence is the best evidence of its contents, and Scevola otherwise denies the allegations of Paragraph 25.

26. However, the veracity of Scevola's claim that he did not have access to Resolute Capital's records is undermined by the following circumstances 1) a year earlier, in July 2008, Scevola did not claim that he did not have access to Resolute Capital's records and, in fact, provided NFA with certain records of Resolute Capital, 2) Resolute Capital's website listed Scevola as not only a Director of Resolute Capital but also as its President and CEO, 3) the official records of the British Virgin Islands Financial Services Commission listed Carlo Scevola & Partners, Ltd as the Manager of Resolute Capital, 4) the offering memorandum for Resolute Capital stated that its Directors were responsible for the overall management and control of Resolute Capital and 5) Resolute Capital's website stated that Scevola, as CEO of Resolute Capital, was "responsible for the Fund's overall vision, corporate strategy and operations."

ANSWER: Paragraph 26 is not an allegation of fact, but rather a preview of the closing argument the Compliance Department apparently intends to make in the course of prosecuting this claim. Scevola denies the substantive allegations of Paragraph 26.

27. Scevola's attorney also represented in his June 3, 2009 letter to NFA that the Leader Fund was inactive and had not traded or solicited participants. However, this representation was contradicted by the e-mail Scevola sent to the investor from the Netherlands which announced that the Leader Fund was open to new investments with a minimum subscription of \$100,000, and included a fact sheet and performance information for the Leader Fund. In addition, the Barclay's Managed Funds Report for June 2009 listed the Leader Fund as having \$10 million under management and a profitable trading record over the past five years.

ANSWER: Paragraph 27 is not an allegation of fact, but rather a preview of the closing argument the Compliance Department apparently intends to make in the course of prosecuting this claim. Scevola denies the substantive allegations of Paragraph 27.

28. Subsequently, NFA sent Scevola's attorney another letter in which NFA reiterated its request that Scevola produce the records of Resolute Capital that NFA had previously requested. NFA also advised Scevola's attorney that NFA regarded Scevola's failure to produce such records as a violation of his obligation under NFA Compliance Rule 2-5, "to cooperate promptly and fully with NFA in any NFA investigation, inquiry, audit, examination or proceeding regarding compliance with NFA requirements ... "

ANSWER: Scevola admits that correspondence was exchanged between him and his attorneys; that correspondence is the best evidence of its contents, and Scevola otherwise denies the allegations of Paragraph 28.

29. NFA further advised Scevola's attorney that — contrary to his representation that the Leader Fund has not solicited participants and has

not engaged in trading — NFA had received information from an individual that Scevola had sent him correspondence in April 2009 which announced that the Leader Fund was open to new investments, with a minimum subscription of \$100,000.

ANSWER: Scevola admits that correspondence was exchanged between him and his attorneys; that correspondence is the best evidence of its contents, and Scevola otherwise denies the allegations of Paragraph 29.

30. In addition, NFA advised Scevola's attorney that Barclay's Managed Funds Report for June 2009 listed the Leader Fund as having \$10 million under management and a profitable trading record over the previous five years. Finally, NFA warned Scevola's attorney that Scevola could face disciplinary action for failing to cooperate with NFA and providing it with false and misleading information.

ANSWER: Scevola admits that correspondence was exchanged between him and his attorneys; that correspondence is the best evidence of its contents, and Scevola otherwise denies the allegations of Paragraph 30.

31. To date, Scevola has failed to produce to NFA the records of Resolute Capital which NFA has requested. Moreover, in representing to NFA that the Leader Fund was not soliciting participants, Scevola provided false and misleading information to NFA. Scevola also provided false and misleading information to the investor from the Netherlands when he told that investor that Resolute Capital had lost all of its money due to the collapse of Crown Forex when, in fact, the bulk of its losses were due to trading losses at Oanda.

ANSWER: See answers to previous allegations; Scevola denies the substantive allegations of Paragraph 31.

32. By reason of the foregoing acts and omissions, Scevola is charged with violations of NFA Compliance Rules 2-5, 2-36(b)(1) and (5), and 2-36(c).

ANSWER: Scevola acknowledges that the Compliance Department has charged him with violations of NFA rules, but denies that he has violated any applicable rules.

For the foregoing reasons, Scevola denies that he has violated any NFA rule, demands a hearing on the charges, and requests that the charges be dismissed.

Respectfully submitted,

CARLO SCEVOLA



By: _____
One of His Attorneys

Dated: December 14, 2009

Robert L. Byman
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rbyman@jenner.com

CERTIFICATE OF SERVICE

I certify that I caused the forgoing Answer of Carlo Scevola to be served by transmitting a copy via e-mail to Docketing@nfa.futures.org on December 14, 2009.



Robert L. Byman

RESOLUTE CAPITAL GROWTH FUND LIMITED

December 2008

Dear Investor,

Re: RESOLUTE CAPITAL GROWTH FUND LIMITED

As you are aware as was previously advised by the Investment Manager to the Fund in their letter dated 20th October 2008 the Resolute Capital Growth Fund has suffered extreme losses and as a result the Directors of the Fund in conjunction with the Investment Manager have taken the decision to close the Fund and distribute the remaining assets to the investors as at the NAV per share 30th November 2008.

The principal reason for the losses incurred by the Fund related to a third party broker defaulting on its obligations. The Investment Manager is in discussions with the broker concerned in order to negotiate compensation and possible recovery of the losses in part or in whole. To date the Investment Manager has negotiated a partial compensation which will result in the fund receiving monthly payments from the broker through until 2010. It is the intention that the Fund will distribute these compensation payments on a quarterly basis to all investors listed on the funds register as at 30 November 2008. Commencing 31st January 2009 compensation received by the Fund will be distributed on a pro-rata basis to all investors and there after on a quarterly basis as at 31st March, 30 June, 30th September.

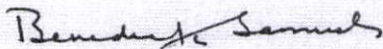
Investors will be informed of their distributions by the Administrators to the Fund.

Should you have any questions in relation to the above please do not hesitate to contact the following:

Resolute Capital Growth Fund at info@rcgf.com

IFA (BVI) LTD at ifa-bvi@ifina.com

Yours sincerely,



Benedicta Samuels
Director

EXHIBIT 1

RESOLUTE CAPITAL GROWTH FUND LIMITED

February 2009

Dear Investor,

Re: RESOLUTE CAPITAL GROWTH FUND LIMITED

The State authorities have by a superprovisional order appointed two special investigators for the brokerage company which defaulted on its obligations towards RCGF, with individual signing authority. The special investigators will report their findings to the authorities, on which basis the regulator will either order specific measures or take such other decision as may be appropriate and warranted by the factual situation.

As you know, Resolute Capital Growth Fund agreed to a deferred repayment plan for the margins held by that broker, and the repayments should have started at the end of January.

Now that the broker's representatives no longer have signing authority without acting together with a special investigator, it is reasonable to assume that they will not be able to comply with the repayment plan without the consent of the investigators. In this respect, the Fund's lawyers have contacted the special investigators on behalf of RCGF to obtain additional information on the status and reasons of the investigation, as well as to reassert the claim of RCGF to the repayment of its account balance and losses.

Although the investigators were not in a position to give the lawyers specific details of the investigation / reasons thereof (for professional secrecy reasons), we understand that the investigation aims at establishing whether the broker has acted in breach of state regulations in the past.

Until the end of the investigation, the broker may not dispose of its assets without the special investigators consent and, in particular, funds withdrawals by clients are suspended until further notice. This means that the payments scheduled as per the deferred payment plan from January 2009 onwards will not be forthcoming.

The lawyers have explained the RCGF situation in detail to the special investigators, and they have been told that there are a large number of clients of the broker in the same position. We believe that the authorities are investigating the whole business model of the broker with increased attention for any trace of fraud or the like, given in particular the Madoff affair.

EXHIBIT 2

Aubergine House, PO Box 2120, Road Town, Tortola, British Virgin Islands

In so far as the prospects of compliance of the broker with the deferred repayment plan are jeopardized to say the least, in order to safeguard RCGF's rights in the event the broker is subsequently put into liquidation by the regulator and/or becomes bankrupt, the lawyers have filed a formal debt collection application for the balance of RCGF's accounts. Separately, they are also going to file an additional debt collection application for the losses claim, as these are direct damages resulting from breaches of contract committed by the broker.

At the moment we have not heard anything new from the special investigators and, to date, the authorities have not published any decision as regards the broker.

Note that the BVI Financial Service Commission and the USA National Futures Association are fully informed of the situation, and they are closely monitoring it. Furthermore, Baker Tilly is currently working on the audit of 2008 financial statements, and as soon as it is completed you will be able to obtain a copy from IFA, the Fund's administrators.

We will keep you informed of the developments, and remain at your disposal for any further clarification.

Should you have any questions in relation to the above please do not hesitate to contact the following:

Resolute Capital Growth Fund at info@rcgf.com

IFA (BVI) LTD at ifa-bvi@ifina.com

Yours sincerely,



Benedicta Samuels

Director