

**NATIONAL FUTURES ASSOCIATION  
BEFORE THE  
BUSINESS CONDUCT COMMITTEE**

In the Matter of:	)	
	)	
FARVIEW INVESTMENTS LLC	)	
(NFA ID #405099),	)	
	)	
and	)	NFA Case No. 11-BCC-027
	)	
RICK E. BROOKS	)	
(NFA ID #77625),	)	
	)	
Respondents.	)	

**COMPLAINT**

Having reviewed the investigative report submitted by the Compliance Department of National Futures Association ("NFA"), and having found 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 Farview Investments LLC ("Farview") and Rick E. Brooks ("Brooks").

**ALLEGATIONS**

**JURISDICTION**

1. At all times relevant to this Complaint, Farview was a registered introducing broker ("IB") NFA Member. As such, Farview was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.
2. At all time relevant to this Complaint, Brooks was an associated person ("AP") and a listed principal of Farview, and an NFA Associate. As such, Brooks was and is required to comply with NFA Requirements and is subject to disciplinary

proceedings for violations thereof. Farview is liable for violations of NFA Requirements committed by Brooks in the course of his activities on behalf of the firm.

### **BACKGROUND**

3. Farview is located in Chicago, Illinois. The firm has operated as an independent IB since April 7, 2009. Brooks is a managing member of Farview and a CME-registered floor broker.
4. NFA previously audited Farview in February 2010, focusing mainly on the sales activities and supervision of an individual who was an AP of the firm at the time, but whom Farview subsequently terminated in April 2010. During the 2010 audit, NFA also conducted limited testing of the firm's financial operations and found that Farview did not have current books and records and misclassified certain commission receivables as current assets. When the 2010 audit fieldwork concluded, it appeared that Farview had corrected its financial deficiencies.
5. NFA commenced another audit of Farview in April 2011, at which time the firm had six APs, twelve active accounts, and provided floor execution services for several traders. During the 2011 audit, NFA found continuing problems with Farview's financial operations, including failure to maintain adequate capital for numerous months, account properly for one of the firm's assets, and properly classify certain receivables. In addition, the audit revealed that Farview failed to implement an adequate anti-money laundering ("AML") program and that the firm and Brooks failed to adequately supervise the firm's operations.

### APPLICABLE RULES

6. NFA Financial Requirements Section 5(a) requires, in pertinent part, that an IB must maintain adjusted net capital ("ANC") of at least \$45,000.
7. NFA Financial Requirements Section 5(c) provides, in pertinent part, that an IB Member that is required to file any document with or give any notice to the Commodity Futures Trading Commission ("CFTC") under CFTC Regulation 1.12 [Maintenance of minimum financial requirements by futures commission merchants and IBs], or 1.17 [Minimum financial requirements for futures commission merchants and IBs] shall also file one copy of such document with or give such notice to NFA at its Chicago office no later than the date such document or notice is due to be filed with or given to the CFTC.
8. NFA Compliance Rule 2-10 provides, in pertinent part, that each Member shall maintain adequate books and records necessary and appropriate to conduct its business including, without limitation, the records required to be kept under CFTC Regulations 1.18 and 1.32 through 1.37.
9. NFA Compliance Rule 2-9(c) provides, in pertinent part, that each IB shall develop and implement a written AML program approved in writing by senior management reasonably designed to achieve and monitor the Member's compliance with the applicable requirements of the Bank Secrecy Act and the implementing regulations promulgated thereunder by the Department of the Treasury and the CFTC. Among other requirements, an AML program must provide for:
  - a. an independent annual review of the AML program to be conducted by Member personnel or by a qualified outside party; and



- b. ongoing training for appropriate personnel.
10. NFA Compliance Rule 2-9(a) provides that each Member shall diligently supervise its employees and agents in the conduct of their commodity futures activities for or on behalf of the Member. Each Associate who has supervisory duties shall diligently exercise such duties in the conduct of that Associate's commodity futures activities on behalf of the Member.

### **COUNT I**

#### **VIOLATIONS OF NFA COMPLIANCE RULE 2-10 AND NFA FINANCIAL REQUIREMENTS 5(a) AND 5(c): FAILURE TO KEEP ACCURATE FINANCIAL RECORDS, MAINTAIN REQUIRED MINIMUM ADJUSTED NET CAPITAL, AND FILE TELEGRAPHIC NOTICE.**

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11. The allegations contained in paragraphs 1 and 3 through 8 are realleged as paragraph 11.
12. When NFA commenced its audit of Farview in April 2011, Farview had not yet prepared its January or February 2011 capital computations. Therefore, NFA requested Farview to prepare these monthly capital computations, which the firm did.
13. When Farview submitted the January and February 2011 capital computations to NFA, Brooks admitted that the firm was under its minimum ANC requirement as of January 2011.
14. Moreover, in reviewing Farview's 2010 monthly capital computations, NFA also determined that the firm was under its minimum ANC requirement for May, as well as for September through November 2010, in amounts ranging from approximately \$6,600 to almost \$23,000.

15. Farview failed to file telegraphic notice of the foregoing capital deficiencies until April 20, 2011, and then only at the instruction of NFA.
16. NFA requested that Farview provide NFA with a pro-forma net capital computation as of April 20, 2011, along with supporting documents. In reviewing these records, NFA found that Farview had misclassified an asset held at a futures commission merchant ("FCM") as a current asset. Specifically, Farview treated 100% of the funds on deposit in a proprietary trading account at the FCM as a current asset. However, since there was little or no trading in this proprietary account, the funds in such account were tantamount to a security deposit and, therefore, under CFTC regulations, only one-half of the amount of such funds could be treated as a current asset.
17. Reclassifying half the value of the funds in the proprietary account as non-current caused Farview to fall under its minimum ANC requirement for February, March, and April 2011, as well as for five additional months in 2010 – April, June through August, and December 2010. The reclassification also required Farview to file telegraphic notice for these periods and prompted Brooks to infuse additional funds to address the firm's capital shortfall.
18. Because of Farview's financial deficiencies, NFA also required the firm to file monthly financial reports, along with supporting documentation, to ensure Farview was in capital compliance.
19. In reviewing the subsequent monthly reports Farview filed for April, May and June 2011, NFA determined that Farview continued to classify commission receivables as a current asset, even though NFA had advised the firm during the 2010 audit that the commission receivables were non-current if they were

uncollected within 30 days after they were due. Reclassifying these receivables as non-current assets caused Farview to fall under its ANC requirement for May 2011 and to have less than \$20 in excess net capital for June 2011.

20. By reason of the foregoing acts and omissions, Farview is charged with violations of NFA Compliance Rule 2-10 and NFA Financial Requirements Sections 5(a) and 5(c).

## **COUNT II**

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

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21. The allegations contained in paragraphs 1, 3, 5 and 9 are realleged as paragraph 21.
22. NFA's Interpretive Notice entitled "FCM and IB Anti-Money Laundering Program" ("AML Interpretive Notice"), which expands upon the requirements of NFA Compliance Rule 2-9(c), provides that an IB must provide for annual independent testing of the adequacy of its AML program.
23. The AML Interpretive Notice also provides that an IB must present ongoing training with regard to AML for all appropriate personnel annually and should maintain records to evidence compliance with this requirement.
24. Farview failed to maintain documentary evidence that an adequate independent AML audit had been completed since the firm became registered in 2009. In addition, Farview failed to provide AML training for one of its APs and failed to maintain evidence that two other APs completed any AML training.
25. By reason of the foregoing acts and omissions, Farview is charged with violations of NFA Compliance Rule 2-9(c).



### COUNT III

#### VIOLATION OF NFA COMPLIANCE RULE 2-9(a): FAILURE TO SUPERVISE.

26. The allegations contained in paragraphs 1 through 5 and 10 are realleged as paragraph 26.
27. Brooks is Farview's managing member and responsible for the firm's financial operations. As such, Brooks was obligated to ensure Farview and its employees complied with NFA Requirements, including financial requirements.
28. As evidenced by the violations alleged above, Brooks and the firm failed to adequately carry out their supervisory duties to ensure that the firm maintained required minimum ANC and accurate financial records, prepared accurate net capital computations, and implemented its AML program.
29. The firm's monthly net capital computations, for which Brooks was responsible, clearly showed that Farview was not maintaining adequate capital at all times. However, Brooks did not take any steps to correct these financial deficiencies, file required telegraphic notice, or ensure timely completion of all monthly computations until prompted by NFA. In addition, Brooks repeatedly disregarded NFA's instructions about classifying overdue commission receivables as non-current assets.
30. Brooks' indifference to regulatory directives and his continuous bickering with NFA staff not only further evidenced his failure to supervise but directly contributed to the firm's capital deficiencies and needlessly complicated and prolonged NFA's 2011 audit.
31. By reason of the foregoing acts and omissions, Farview and Brooks are charged with violations of NFA Compliance Rule 2-9(a).

## **PROCEDURAL REQUIREMENTS**

### **ANSWER**

You must file a written Answer to the Complaint with NFA within thirty 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.

The place for filing an Answer shall be:

National Futures Association  
300 S. Riverside Plaza  
Suite 1800  
Chicago, Illinois 60606-3447  
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 associated person 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: 10-17-11

By:

  
Chairperson

M/cxc/complaints/farview complaint

## AFFIDAVIT OF SERVICE

I, Myra Lewis, on oath state that on October 18, 2011, I served a copy of the attached Complaint, by sending such copy in the United States mail, first-class delivery, and by messenger delivery, in envelopes addressed as follows:

Farview Investments LLC  
141 W. Jackson Boulevard  
Suite 1502  
Chicago, IL 60604  
Attn: Rick E. Brooks  
President

and also by overnight mail:

Rick E. Brooks  
95 Pickerel Cove Circle  
Mashpee, MA 02649

Myra Lewis  
Myra Lewis

Subscribed and sworn to before me  
on this 18<sup>th</sup> day of October 2011.

Margaret A. Wendermyde  
Notary Public

