

NATIONAL FUTURES ASSOCIATION  
BEFORE THE  
BUSINESS CONDUCT COMMITTEE

FILED

MAR 12 2012

In the Matter of: ) NATIONAL FUTURES ASSOCIATION  
 ) LEGAL DOCKETING  
SUN TECH INTERNATIONAL )  
WEALTH MANAGEMENT, INC. )  
(NFA ID #354789), )  
 )  
and ) NFA Case No. 12-BCC-003  
 )  
CLEMENT TUNG )  
(NFA ID #346879), )  
 )  
Respondents. )

**COMPLAINT**

Having reviewed the investigative report submitted by the Compliance Department of National Futures Association (NFA), and having reason to believe that NFA Requirements are being, have been, or are about to be violated and that the matter should be adjudicated, NFA's Business Conduct Committee issues this Complaint against Sun Tech International Wealth Management, Inc. (STI) and Clement Tung (Tung).

**ALLEGATIONS**

**JURISDICTION**

1. At all times relevant to this Complaint, STI was a commodity trading advisor (CTA) and commodity pool operator (CPO) NFA Member purportedly located in Pasadena, California. As an NFA Member, STI was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.

2. At all times relevant to this Complaint, Tung was STI's sole associated person (AP) and listed principal and an NFA Associate. As such, Tung was required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.

#### **BACKGROUND**

3. STI became registered as a CTA and CPO in May 2005 and became approved as a Forex Firm in September 2011.
4. NFA conducted an audit of STI in June 2011 which revealed that STI and Tung were using promotional material which was misleading in that it implied that STI operated, and/or acted as an Investment Advisor (IA) for, another fund, thereby creating the misimpression that the fund was subject to Commodity Futures Trading Commission (CFTC) and NFA regulations, when it was not.

#### **APPLICABLE RULES**

5. NFA Compliance Rule 2-39(a) provides, in pertinent part, that 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 Sections (a), (b), (c), (d), (e), (h), and (l) of NFA Compliance Rule 2-36.
6. NFA Compliance Rule 2-36(b)(1) provides that no Forex Dealer Member or Associate of a Forex Dealer Member engaging in any forex transaction shall cheat, defraud or deceive, or attempt to cheat, defraud or deceive any other person.

**COUNT I**

**VIOLATION OF NFA COMPLIANCE RULE 2-36(b)(1): USING FALSE AND MISLEADING PROMOTIONAL MATERIAL.**

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7. The allegations contained in paragraphs 1 through 6 are realleged as paragraph 7.
8. In June 2011, during routine internet surveillance, NFA reviewed STI's website, [www.stiwealth.com](http://www.stiwealth.com). The website included information regarding "STI Wealth Management," which, according to NFA's Online Registration System (ORS), is a DBA for STI, and a pool called Spectra SPC PowerFund (PowerFund).
9. STI had not listed any pools with NFA or filed any pool exemptions. Thus, NFA questioned the nature of STI's relationship with the PowerFund pool and, specifically, whether STI was operating PowerFund.
10. Therefore, NFA decided to conduct an audit of STI to determine STI's role, if any, in the operation of PowerFund. On June 27, 2011, an NFA audit team visited STI's offices in Pasadena, California. However, when the audit team arrived at STI's office address, as listed in ORS, they found an office rental facility and no one from STI present at such location.
11. The NFA audit team then called Tung to inform him of the audit and ask him to produce certain documents and information to NFA. Tung told the NFA auditors that he was in Hong Kong and that STI was currently not doing any business in the U.S. and had no U.S. customers.
12. NFA asked Tung to explain the information on STI's website concerning the PowerFund pool. Tung said that PowerFund was organized in the Cayman Islands, had no U.S. customers, and was operated by STI Wealth Management (Cayman) Ltd. (STI Cayman), which Tung said was a company controlled by him

but was a different entity than STI, the NFA Member firm. Tung provided NFA with PowerFund's December 2010 certified audit which showed that the fund had amassed nearly \$60 million in net assets during its first three years of operations.

13. Tung also provided NFA with a July 14, 2011 trial balance for PowerFund, which showed that since December 31, 2010, its net assets had grown to nearly \$95 million. NFA verified PowerFund's assets with the fund's administrator, Maples Finance Limited; with the fund's custodian, Bank of New York; and with the fund's brokers, City Credit Capital (Labuan) Ltd., and Interactive Brokers.
14. Tung also told NFA that STI (the NFA Member firm) had acted as the Investment Advisor for PowerFund since the fund launched in 2007. This information was consistent with PowerFund's offering memorandum (OM) which identified STI as PowerFund's Investment Advisor. The OM further stated that "STI is a licensed CTA, regulated by the CFTC and is a Member of NFA."
15. NFA pressed Tung to explain how STI "advises" the PowerFund. Tung admitted that STI's role was limited to preparing market research reports. Tung further admitted that these reports have no impact on PowerFund's trading decisions or how it ultimately makes its investment decisions. In fact, according to Tung, the PowerFund's trading decisions are based exclusively on trading software developed by Tung.
16. Based on these facts, it appears that STI's "advisory" role with PowerFund was illusory and that STI did not actually advise PowerFund, nor exert any influence over the fund's operations or investment decisions. Therefore, the representations

in STI's website and PowerFund's OM that STI acts as an IA and "manages" PowerFund were highly misleading.

17. Both the STI website and the PowerFund OM were equally misleading in that they implied that PowerFund is subject to regulation by NFA and the CFTC when, in fact, PowerFund is not subject to the jurisdiction of either NFA or the CFTC.
18. In addition to the misleading information on the STI website and in the PowerFund OM, hedge fund reports produced by Lipper, Inc. (Lipper) and Morningstar Inc. (Morningstar) also contained misleading information concerning STI and PowerFund. The Lipper Report stated that NFA and the CFTC are the regulatory bodies for the PowerFund, which as alleged, above, is false; and the Morningstar Report stated that STI was the IA for PowerFund, which is also untrue. Lipper and Morningstar received this false information from Tung and from the STI website and the PowerFund OM which Tung prepared.
19. As alleged above, Tung claimed that STI is not and has never done any business. Yet, NFA's BASIC system has reported nearly 3,000 searches seeking information about STI since the firm became an NFA Member in May 2005. This suggests that the investing public is under the misapprehension that STI is doing business; operating and advising the PowerFund as its IA; and, in its purported capacity as PowerFund's IA, is subject to NFA and CFTC regulation – when, in fact, STI (the NFA Member) has little, if anything to do with PowerFund which is operated by STI Cayman.
20. Tung, as STI's sole AP and principal and an NFA Associate, was responsible for STI's website and all other promotional materials he prepared, including

PowerFund's OM, which promoted STI. As such, Tung was obligated to ensure that STI's website and these other promotional materials did not deceive the public. However, Tung breached this obligation in that he used STI's website and PowerFund's OM to mislead the public into believing that the PowerFund pool was subject to oversight and regulation by NFA and the CFTC, when it was not.

21. By reason of the foregoing acts and omissions, STI and Tung are charged with violations of NFA Compliance Rule 2-36(b)(1), as incorporated by and in NFA Compliance Rule 2-39(a).

#### **PROCEDURAL REQUIREMENTS**

#### **ANSWER**

You must file a written Answer to the Complaint with NFA within thirty (30) days of the date of the Complaint. The Answer shall respond to each allegation in the Complaint by admitting, denying or averring that you lack sufficient knowledge or information to admit or deny the allegation. An averment of insufficient knowledge or information may only be made after a diligent effort has been made to ascertain the relevant facts and shall be deemed to be a denial of the pertinent allegation.

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

National Futures Association  
300 South Riverside Plaza  
Suite 1800  
Chicago, Illinois 60606  
Attn: Legal Department-Docketing

E-Mail: [Docketing@nfa.futures.org](mailto:Docketing@nfa.futures.org)  
Facsimile: 312-781-1672

Failure to file an Answer as provided above shall be deemed an admission of the facts and legal conclusions contained in the Complaint. Failure to respond to any allegation shall be deemed an admission of that allegation. Failure to file an Answer as provided above shall be deemed a waiver of hearing.

**POTENTIAL PENALTIES, DISQUALIFICATION AND INELIGIBILITY**

At the conclusion of the proceedings conducted as a result of or in connection with the issuance of this Complaint, NFA may impose one or more of the following penalties:

- (a) expulsion or suspension for a specified period from NFA membership;
- (b) bar or suspension for a specified period from association with an NFA Member;
- (c) censure or reprimand;
- (d) a monetary fine not to exceed \$250,000 for each violation found; and
- (e) order to cease and desist or any other fitting penalty or remedial action not inconsistent with these penalties.

The allegations in this Complaint may constitute a statutory disqualification from registration under Section 8a(3)(M) of the Commodity Exchange Act. Respondents in this matter who apply for registration in any new capacity, including as an AP with a new sponsor, may be denied registration based on the pendency of this proceeding.

Pursuant to the provisions of CFTC Regulation 1.63, penalties imposed in connection with this Complaint may temporarily or permanently render Respondents who are individuals ineligible to serve on disciplinary committees, arbitration panels and

governing boards of a self-regulatory organization, as that term is defined in CFTC  
Regulation 1.63.

**NATIONAL FUTURES ASSOCIATION  
BUSINESS CONDUCT COMMITTEE**

Dated: 3/12/12

By:

  
Chairperson

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## AFFIDAVIT OF SERVICE

I, Nancy Miskovich-Paschen, on oath state that on March 12, 2012, I served copies of the attached Complaint, by sending such copies by e-mail and overnight delivery, in envelopes addressed as follows to:

Sun Tech International Wealth Management Inc. Clement Tung  
100 Queens Road Central 463 South Oakland Avenue  
Central #7  
Unit 901, 9th Floor Pasadena, CA 91101  
Hong Kong 852 E-mail: clement.tung@stiwealth.com  
Attn: Clement Tung  
E-mail: clement.tung@stiwealth.com

Nancy Miskovich-Paschen  
Nancy Miskovich-Paschen

Subscribed and sworn to before me  
on this 12th day of March 2012.

Mary A. Patton  
Notary Public

