

NATIONAL FUTURES ASSOCIATION  
BEFORE THE  
BUSINESS CONDUCT COMMITTEE

FILED

OCT 23 2012

NATIONAL FUTURES ASSOCIATION  
LEGAL DOCKETING

In the Matter of: )

FX DIRECT DEALER LLC )  
(NFA ID #397435), )

and )

JAMES E. GREEN )  
(NFA ID #209125), )

Respondents. )

NFA Case No. 12-BCC-030

**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 FX Direct Dealer LLC ("FXDD") and James E. Green ("Green").

**ALLEGATIONS**

**JURISDICTION**

1. At all times relevant to this Complaint, FXDD was an NFA Member and a registered futures commission merchant ("FCM"), forex dealer member ("FDM") and retail foreign exchange ("forex") dealer located in New York City. As such, FXDD 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, Green was the chief compliance officer ("CCO"), a listed principal, and a forex associated person ("AP") of FXDD, and an

NFA Associate. As such, Green is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. FXDD is also liable for violations of NFA Requirements committed by Green in the course of his activities on behalf of the firm.

### **BACKGROUND**

3. FXDD has been an NFA Member since December 2009 and its principal business is offering forex trading to retail customers. As of June 2012, when NFA commenced its 2012 audit of FXDD, FXDD had approximately 5,000 active U.S. retail forex customer accounts.
4. In addition to his role as FXDD's CCO, Green is also the firm's anti-money laundering ("AML") compliance officer and has primary responsibility for implementing and monitoring the day-to-day operations and internal controls of FXDD's AML compliance program.
5. In June 2012, NFA issued a Complaint against FXDD that charged the firm with failing to conduct annual AML training for new employees and employees who worked in areas susceptible to money laundering. The Complaint also charged FXDD and Green with failing to supervise the FXDD's operations, including its AML program.
6. Shortly before the issuance of the aforementioned Complaint, NFA commenced its 2012 annual audit of FXDD. Because of FXDD's previous failure to conduct annual AML training, NFA's 2012 audit focused on FXDD's AML program. As alleged below, NFA's 2012 audit found that FXDD had again failed to conduct annual AML training for all employees who worked in areas susceptible to money

laundering. More significantly, though, NFA's 2012 audit found that FXDD failed to detect or conduct an adequate investigation of suspicious activity in several of its customers' accounts which evidenced a serious failure on the part of FXDD and Green to adequately supervise the firm's AML program.

### **APPLICABLE RULES**

7. NFA Compliance Rule 2-9(c) and a related Interpretive Notice ("Notice") require an FCM Member to 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, as applicable, the Commodity Futures Trading Commission ("CFTC"). NFA Compliance Rule 2-9(c) states, in pertinent part, that a firm's AML program must establish and implement policies, procedures and internal controls reasonably designed to assure compliance with the applicable provisions of the Bank Secrecy Act ("BSA"), and designate an individual (or individuals) to implement and monitor the day-to-day operations and the program's internal controls.
8. The Interpretive Notice related to Compliance Rule 2-9(c) highlights the minimum standards that are part of an adequate AML program, provides additional guidance on satisfying the requirements of NFA Compliance Rule 2-9(c), and discusses key components of the firm's policies, procedures and internal controls, which include detecting and reporting suspicious activity, adopting a customer identification program ("CIP"), and providing education and training to

appropriate personnel. In addition, the Interpretive Notice provides examples of suspicious transactions and "red flags" that could cause further investigation by a firm, identifies wire transfer activity as one area that firms should give heightened scrutiny, and includes detailed information about monitoring accounts for suspicious activity. The Notice also states that a firm's compliance program must require employees to notify identified firm personnel of any potential suspicious activity, and such personnel must evaluate the activity and decide whether it warrants reporting to FinCEN. For transactions occurring after May 18, 2004, an FCM must also file a Suspicious Activity Report for Securities and Futures ("SAR") with FinCEN.

9. The Notice also requires an FCM to design its customer identification program to enable the firm to form a reasonable belief that it knows the true identity of each customer and to include risk-based procedures to verify the identity of each customer and the situations under which the firm will require additional verification based on the firm's risk assessment of a new account. In addition, FCM Members are required to provide training for all appropriate personnel at least every twelve months and to conduct an independent test of the adequacy of its AML program at least every twelve months.
10. NFA Compliance Rule 2-36(e) provides that each FDM shall diligently supervise its employees and agents in the conduct of their forex activities for or on behalf of the FDM. Each Associate of an FDM who has supervisory duties shall diligently exercise such duties in the conduct of that Associate's forex activities for or on behalf of the FDM.

## COUNT I

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

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11. The allegations contained in paragraphs 1 and 3 through 9 are realleged as paragraph 11.
12. In accordance with the requirements of NFA Compliance Rule 2-9(c) and the related Interpretive Notice, FXDD adopted an AML program and an AML Compliance Manual, which NFA reviewed as part of its 2012 audit of FXDD.
13. Similar to the Interpretive Notice for NFA Compliance Rule 2-9(c), FXDD's AML program identified certain "red flags" that are indicative of suspicious activity. Examples of "red flags" listed in FXDD's AML program include extensive wire activity in an account where previously there had been no wire activity and a deposit of money to an account followed by an immediate request that the money be wired out or transferred to a third party or to another firm without any apparent business purpose.
14. FXDD's AML program also requires an employee who identifies a suspicious transaction or activity in a customer's account to promptly notify his/her direct supervisor and the Compliance Officer (or, if this is not possible, FXDD's senior management) before the transaction is processed or further services are performed for the customer. The supervisor/manager is responsible for bringing the suspicious transaction or activity to the attention of the Compliance Officer, who is charged with filing reports and communicating with regulators. The Compliance Officer is required to determine whether the transaction or account activity warrants the filing of a SAR and/or some other further action regarding

the transaction or account in which the suspicious activity occurred. According to FXDD's AML Manual, Green – as FXDD's AML Compliance Officer – was responsible for overseeing the firm's AML policy, including the filing of SARs.

15. As part of NFA's 2012 audit of FXDD, NFA obtained account opening documents and activity statements for approximately 25 accounts, covering the period from January 2012 through June 2012 or, for some of the accounts, through August 2012. In reviewing the account opening documents and activity statements for these accounts, NFA noted suspicious activity in several of these accounts which FXDD had failed to identify, investigate, or report. Much of the suspicious activity that NFA noted involved activity which was identified as a "red flag" in both NFA's Interpretive Notice and FXDD's own AML program, including extensive and unexplained wire activity (often with little or no trading in the accounts) and deposits to accounts that exceeded the customer's reported income, net worth, and/or risk capital.
16. For example, one FXDD customer (referred to herein as Customer #1) opened a trading account with FXDD in January 2012. Customer #1's account opening documents stated that he had an estimated annual income of \$100,000 to \$250,000, a net worth of \$250,000 to \$500,000, and available risk capital of \$50,000 to \$100,000. However, from January 24, 2012 through August 27, 2012, Customer #1 made approximately 50 deposits totaling \$256,700 into his account and withdrew \$196,900, which left him with a balance of just under \$60,000 in late August 2012.

17. Customer #1's deposits were usually for \$5,000 or less and were made through PayPal, and often involved multiple deposits over the course of several consecutive days. For example, NFA noted six deposits in amounts of \$5,000 or less made daily through PayPal from March 25 through March 29, 2012, for total deposits of \$29,000. About two weeks later, on April 17, 2012, Customer #1 withdrew \$30,000 from his account in three separate transactions of \$10,000 each. Five days later, and for no obvious reason, Customer #1 commenced another series of \$5,000 deposits, which extended over a two-week period and totaled \$30,000. Customer #1 engaged in similar activity in June 2012, making three separate withdrawals on the same day (June 1, 2012) of \$10,000 each, for a total of \$30,000. Then, over the course of the following week, Customer #1 made five deposits totaling \$29,800. Customer #1 engaged in similar activity in his account in August 2012.
18. The frequency and amount of cash transfers in and out of Customer #1's account was suspicious, especially since Customer #1 traded the minimum lot sizes available at FXDD, making a maximum profit/loss of \$15 on an individual trade. Except for a few days in January 2012, Customer #1's trading consisted solely of micro-lots in various currency pairs that had no apparent pattern. Over the eight-month period that NFA reviewed, Customer #1's account was nearly flat with an overall loss of only approximately \$100 on settled trades which was at odds with the frequent cash activity in Customer #1's account.
19. Another FXDD customer (herein referred to as Customer #2) opened a trading account with FXDD in January 2012 and, in his account opening documents, he

reported an estimated annual income of \$25,000 to \$50,000, a net worth of \$50,000 to \$100,000, and risk capital of \$10,000 to \$50,000. Yet, from January through June 2012, Customer #2 deposited a total of \$186,600 into his account, which was more than three times his estimated maximum annual income and risk capital, and almost double his estimated maximum net worth.

20. In addition, Customer #2 engaged in suspicious deposit/withdrawal activity in his account. For example, the \$186,600 which Customer #2 deposited in his account, overall, came in the form of 43 separate deposits, usually for \$5,000 or less, which were made through PayPal. At the same time, Customer #2 made 30 withdrawals from his account which totaled roughly the same as his total deposits, leaving him with an account balance of approximately \$6 at the end of June 2012.
21. Several specific transactions in June 2012 were also suspicious in themselves. For example, Customer #2 made two withdrawals, one on June 10 and the other on June 13, which brought his account balance to \$0, but then the following day, on June 14, Customer #2 deposited \$5,000 and then just two days later withdrew almost all of these funds. Several days later, on June 19, Customer #2 again made another \$5,000 deposit, withdrew the same amount the following day, and then the day after re-deposited \$5,000. This pattern of unexplained deposits and withdrawals continued in Customer #2's account throughout the rest of June 2012. Additionally, no correlation appeared to exist between the trading activity, which involved micro-lots, and the cash activity in Customer #2's account.



22. Another customer of FXDD (herein referred to as Customer #3) opened a trading account with FXDD in November 2008. In his account opening documents, Customer #3 reported a net worth and risk capital of between \$250,000 and \$500,000 and an annual income of between \$100,000 and \$250,000. From November 2008 through February 2012, Customer #3's account had minimal deposit/withdrawal activity and minimal trading activity. In fact, Customer #3's account had no activity at all and was essentially dormant between January 2009 and October 2010, and again throughout most of 2011.
23. However, the cash activity in Customer #3 account changed dramatically starting in March 2012 and continuing through June 2012. During this approximate four-month period, there were 37 deposits, totaling approximately \$42,000, to Customer #3's account which were made using PayPal, ClickandBuy (another online payment service provider), or credit cards. The size of these deposits was also larger than they had previously been. Before March 2012, most of the deposits to Customer #3's accounts were for \$500, but after March 2012 there were many deposits of \$1,000 or more and some exceeded \$6,000. In addition, on several occasions Customer #3 made numerous deposits on the same day. For example, on March 27 there were seven deposits and on March 28 there were six deposits. Despite all of the deposit activity in Customer #3's account between March and the end of June 2012, there was no trading activity whatsoever in Customer #3's account during this period. Instead, most of the money that had been deposited in Customer #3's account during this period was withdrawn.

24. FXDD acted contrary to company policy in the way it handled the withdrawals that Customer #3 made from his account. Green and other FXDD accounting personnel, including chief financial officer Timothy Garland ("Garland"), represented to NFA that it was the policy of FXDD to distribute withdrawals to a customer using the same method that the customer used to make deposits to his/her account. According to Green and Garland, if a customer made deposits to his/her account using PayPal, then FXDD would send withdrawals to the customer also using PayPal. However, FXDD returned withdrawn funds to Customer #3 by wire transfers, even though Customer #3 had only used online pay providers and credit cards to make deposits and never wired any funds to his account at FXDD. Moreover, FXDD maintained no documentation explaining why, with respect to Customer #3, it deviated from its policy of distributing withdrawals using the same method as the customer used to make deposits to his/her account.
25. Another customer of FXDD (herein referred to as Customer #4) was a limited liability company which opened an account at FXDD in January 2012. According to Customer #4's account opening documents, it had an estimated annual income of \$100,000 and liquid net worth of \$50,000. Between January 2012 and April 2012, Customer #4 conducted no trading whatsoever in its account at FXDD. Yet, during this same period, Customer #4 made close to 20 separate deposits to its account, all through PayPal, which together totaled \$75,000, and withdrew nearly all of this money except for \$100.

26. Some of the other customer accounts at FXDD, which NFA reviewed as part of the 2012 audit, also had a significant number of deposits and withdrawals and no trading activity, but FXDD took no steps to investigate such suspicious activity.
27. FXDD and Green claimed to be unaware of the suspicious activity in the accounts of Customers #1, #2, #3, and #4, and the other accounts alleged in paragraph 26, until NFA brought such suspicious activity to their attention. Moreover, Green told NFA that he did not consider the activity in those accounts to be suspicious. Green also told NFA that FXDD had never formally reported suspicious activity or transactions to any regulatory authority.
28. As alleged above, NFA's AML Interpretive Notice requires an FCM's CIP to meet the requirements of the BSA and enable the FCM to form a reasonable belief that it knows the true identity of each customer. FXDD's CIP, which was in effect during NFA's 2012 audit of FXDD, required FXDD to obtain all essential facts relating to each customer and account so as to enable FXDD to assess the transactions, the authenticity of orders, and the legitimacy of customers and their funds. In addition, FXDD's CIP required FXDD to use reasonable efforts to determine the true identity of each customer and ownership of each account and required FXDD to utilize its own systems to protect itself from knowingly servicing accounts opened or based on false or incomplete information.
29. However, contrary to NFA's Interpretive Notice, FXDD's CIP did not include risk-based procedures for verifying the identity of each customer or alerting FXDD of situations requiring additional verification of a customer's identity. NFA identified certain customer accounts at FXDD where FXDD failed to collect relevant

information to verify the identity of the customers and assess the legitimacy of the funds they deposited into their accounts. In addition, NFA identified several accounts that FXDD failed to flag as "high risk" even though the customers who opened these accounts were located in a high-risk country according to the Financial Action Task Force ("FATF").

30. For example, NFA reviewed the account of one of FXDD's customers (herein referred to as Customer #5), who resided in Indonesia, which is a high-risk country according to the FATF. The account opening documents for Customer #5 included a photocopy of Customer #5's purported passport which FXDD had obtained to verify Customer #5's identity. The name on the passport did not exactly match the name on the account application form, i.e., the last name on the passport had only four letters whereas the last name on the account application had five letters. Even more significant, the first and last names in the body of the passport did not match the first and last names in the bar code at the bottom of the passport. They were completely different names. Despite the fact that Customer #5 resided in a high-risk country for money laundering and that Customer #5's passport was highly suspicious on its face, FXDD failed to take any steps to verify the identity of Customer #5.
31. NFA questioned Green about Customer #5's passport. Green attempted to prove to NFA that the passport was authentic by doing a background check for Customer #5 using the name that appeared in the body of the passport. However, the service provider that Green used to do the background check reported the information that would demonstrate a successful verification of the

individual's passport – i.e., the name which appeared in the body of the passport should be identical to the name that appeared in barcode information at the bottom of the passport. However, it appears that FXDD never compared the background check results to the passport's barcode information and, therefore, failed to notice the name discrepancy. (Green – although FXDD's AML Compliance Officer – appeared not to know how to use a passport's barcode information to verify the validity of a passport until NFA staff showed him how to use this information.)

32. Another foreign customer (herein referred to as Customer #6) opened four joint accounts at FXDD in March 2012, which were co-owned with four different individuals. Customer #6 listed his occupation as "teacher" in the account opening documents for three of these accounts but listed different schools as his employer. In the account opening documents for the fourth account, Customer #6 listed his occupation as "manager" of an investment company.
33. The account opening documents for each of these four accounts listed the account holders' annual income as between \$25,001 and \$50,000, and their net worth as between \$50,000 and \$100,000. One of these accounts was never funded, one was funded with a deposit of more than \$1.7 million, and the other two accounts were funded with deposits totaling \$205,000. Despite these large deposits, no trading occurred in any of these accounts.
34. Despite the fact that Customer #6 gave conflicting information about his occupation, that more than \$2 million was deposited into these joint accounts – which far exceeded the annual income and net worth information reported in the

account opening documents – and that no trading occurred in these accounts, FXDD undertook no investigation into Customer #6's background and financial circumstances, and made no attempt to determine the legitimacy of the cash activity in these accounts until NFA brought these matters to Green's attention.

35. As part of NFA's 2012 audit of FXDD, NFA also reviewed FXDD's wire activity. NFA noted eleven wire deposits to four different accounts between January 12 and April 19, 2012. These wire deposits ranged in amounts from \$7,000 to \$30,000 and together totaled \$185,000. Although these wire deposits went to four different accounts, they all came from the same place – Silver Springs, Nevada.
36. NFA obtained the account opening documents and activity statements for the four accounts to which the above wire deposits were made. In reviewing these documents, NFA determined that one customer (herein referred to as Customer #7) was connected to all four of these accounts. One of the accounts was Customer #7's own individual account, while the other three accounts were in the names of companies for which Customer #7 was listed as the sole member or president and as the account manager for their accounts. Two of the companies also listed Customer #7's employer as their registered agent.
37. FXDD had performed a background check on Customer #7 which failed to verify Customer #7's address, social security number, or driver's license number. NFA questioned Green about this, and he represented to NFA that he did not rely on the background check to verify Customer #7's identity but instead relied on a passport and driver's license that Customer #7 had provided to FXDD in June

2009 in connection with another account he had opened at FXDD for a company for which he was the registered agent. Therefore, NFA reviewed the driver's license and passport Customer #7 had submitted to FXDD in 2009 and noted that the driver's license listed a Post Office Box as Customer #7's address.

FXDD's records also included a copy of a temporary driver's license for Customer #7, which listed a street address in Silver Springs, Nevada. However, FXDD's records did not include any supporting documentation to confirm this address, e.g., a utility bill or some other post marked correspondence from a third party addressed to Customer #7 at the street address in Silver Springs, Nevada.

38. In an attempt to verify the accuracy of the street address listed on Customer #7's temporary license, NFA conducted an Internet search for that address and was able to find a satellite view of the address which revealed a lot in the Nevada desert on which a mobile home was situated. NFA noted that this address was also the address that Customer #7 had listed for the registered agent for several of the companies for which he had opened accounts at FXDD.

39. Therefore, NFA accessed the registered agent's website, which described the company as a Nevada "incorporation service" provider. The website stated that the registered agent offered a "nominee officer service" whereby the registered agent would provide individuals to serve as nominee officers for a corporation that wanted to keep the identities of persons associated with the corporation anonymous. In addition, the nominee officers would supply their own social security numbers on the "Employer Identification Number" filing with the Internal Revenue Service to ensure the privacy of the corporation and its associates.

According to the Nevada Secretary of State's website, Customer #7 was listed as an officer for more than 500 companies.

40. Based on these circumstances, it is uncertain who the real owners were of the accounts Customer #7 opened at FXDD for which he identified himself as the account manager. Moreover, FXDD was unable to provide any evidence to NFA that it made any reasonable inquiry to determine the identity of the real owners of these accounts.
41. NFA's 2012 audit also found shortcomings with the due diligence FXDD performed to determine the source and legitimacy of funds customers used to open their accounts. Approximately 35% of FXDD's customers transmitted funds to and from their accounts by using PayPal or a credit card. According to FXDD, it relied upon PayPal or Global Collect, a credit card processing firm, to provide the names of its users whose accounts at FXDD should be credited with a deposit or debited with a withdrawal. Thus, except for the name provided by PayPal or the credit card processing firm, FXDD knew nothing else about the ultimate source of deposits or destination of withdrawals for customers who used PayPal or credit cards to make transfers to and from their accounts at FXDD.
42. NFA's June 2012 audit also revealed continuing deficiencies with FXDD's AML training program. Specifically, FXDD's AML procedures, which were in effect at the time of NFA's 2012 audit, specifically required mandatory AML training for new employees in certain departments, including the New Accounts, Compliance, Sales, and Customer Service Departments. Such training was required to be performed within the first four weeks of the new employee's



employment. Additionally, FXDD's AML procedures provided for mandatory annual training for all employees who worked in areas susceptible to money laundering. However, FXDD failed to comply with either of the above AML training requirements.

43. During the 2012 audit, NFA reviewed FXDD's AML training records for new employees hired since NFA's 2011 audit; employees who worked in areas susceptible to money laundering whom NFA had not review during its 2011 audit; and senior management and others in charge of overseeing FXDD's AML program. NFA selected 40 of these employees for testing and determined about half of them had failed to complete AML training within the timeframes outlined in FXDD's procedures. NFA also found that FXDD's chief executive officer, Joseph Botkier, and CCO Green, each had a fourteen-month gap in their AML training and only completed their AML training on the day NFA arrived at FXDD's office to begin its 2012 audit of the firm.
44. In addition, FXDD failed to conduct an independent review of its AML program on an annual basis. FXDD conducted an independent audit of its AML program in December 2010 but did not complete another independent audit of its AML program until June 2012, which was an eighteen-month gap.
45. By reason of the foregoing acts and omissions, FXDD is charged with violations of NFA Compliance Rule 2-9(c).

## COUNT II

### VIOLATIONS OF NFA COMPLIANCE RULE 2-36(e): FAILING TO SUPERVISE.

46. The allegations contained in paragraphs 1 through 6 and 10 are realleged as paragraph 46.
47. FXDD is required to diligently supervise its employees and agents in the conduct of their forex activities for or on behalf of the firm. Green, as FXDD's AML Compliance Officer, had specific responsibility for the firm's AML function and was responsible for ensuring that the firm's AML procedures were followed, which included detecting and reporting suspicious activity, adopting a CIP program that met BSA requirements, and ensuring that AML training requirements were met. Furthermore, as an NFA Associate with general supervisory duties at FXDD, Green was responsible for diligently supervising FXDD's overall operations and activities in addition to his specific supervisory duties, as the firm's AML Compliance Officer, for diligently supervising FXDD's AML program.
48. The allegations contained in paragraphs 12 through 44 of Count I are realleged as paragraph 48.
49. As alleged above, NFA's June 2012 audit of FXDD found numerous examples of suspicious activities that FXDD and Green failed to detect and/or report. FXDD and Green also failed to ensure that other firm personnel identified or inquired about such suspicious activities, documented the reasons for not reporting such suspicious activities, or properly reported such suspicious activities to the appropriate regulatory authority, as required by NFA's Interpretive Notice to

Compliance Rule 2-9(c) and the firm's own AML procedures. In addition, FXDD and Green failed to make sure that FXDD's other AML procedures were followed, including those relating to AML training for appropriate personnel and an annual independent audit of the firm's AML program. Moreover, FXDD and Green offered no credible explanation to NFA as to why they did not follow the guidance provided in NFA's AML Interpretive Notice or the firm's own AML procedures in carrying out their AML responsibilities at FXDD.

50. By reason of the foregoing acts and omissions, FXDD and Green are charged with violations of NFA Compliance Rule 2-36(e).

### **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:

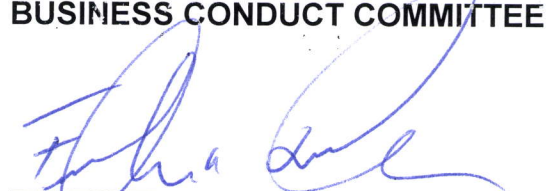
- (a) expulsion or suspension for a specified period from NFA membership;
- (b) bar or suspension for a specified period from association with an NFA Member;
- (c) censure or reprimand;
- (d) a monetary fine not to exceed \$250,000 for each violation found; and
- (e) order to cease and desist or any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

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

Pursuant to the provisions of CFTC Regulation 1.63, penalties imposed in connection with this Complaint may temporarily or permanently render Respondents who are individuals ineligible to serve on disciplinary committees, arbitration panels and governing boards of a self-regulatory organization, as that term is defined in CFTC Regulation 1.63.

**NATIONAL FUTURES ASSOCIATION  
BUSINESS CONDUCT COMMITTEE**

Dated: 10-23-12

By:   
Chairperson


m/cxc/complaints/fxdd complaint, final, 10-22-12

**AFFIDAVIT OF SERVICE**


I, Nancy Miskovich-Paschen, on oath state that on October 23, 2012, I served copies of the attached Complaint, by sending such copies by e-mail and messenger service, in envelopes addressed as follows to:

James B. Koch, Esq.  
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\_\_\_\_\_  
Nancy Miskovich-Paschen

Subscribed and sworn to before me  
on this 23rd day of October 2012.

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

