

**NATIONAL FUTURES ASSOCIATION  
BEFORE THE HEARING PANEL**

**FILED**  
  
OCT 29 2019  
  
NATIONAL FUTURES ASSOCIATION  
LEGAL DOCKETING

In the Matter of: )  
)  
PLUTUS CAPITAL MANAGEMENT LLC )  
(NFA ID #493877), )  
)  
and )  
)  
MARK E. PHILIPS )  
(NFA ID #495622), )  
)  
Respondents. )

NFA Case No. 19-BCC-006

**DECISION**

Having reviewed the Complaint issued by the Business Conduct Committee (BCC) of National Futures Association (NFA) in the above-captioned case, and having considered the Offer of Settlement (Offer) submitted by Plutus Capital Management LLC (Plutus) and Mark E. Philips (Philips), and having accepted the Offer, the Hearing Panel hereby issues this Decision as to Plutus and Philips.

I

**ALLEGED VIOLATIONS OF NFA REQUIREMENTS**

On June 4, 2019, the BCC issued a Complaint against Plutus, a commodity pool operator (CPO) NFA Member in Wichita, Kansas, and Philips, the sole associated person and principal of Plutus and an NFA Associate.

The Complaint alleged that Plutus and Philips violated NFA Compliance Rule 2-4 by taking excess withdrawals and improper redemptions from the Plutus Venture Fund, LP (the Fund), a commodity pool operated by Plutus, and improperly allocating start-up expenses to the Fund instead of Plutus. The Complaint also alleged

that Plutus and Philips violated NFA Compliance Rules 2-2(f) and 2-5 by providing misleading information to NFA concerning certain trading accounts and failing to promptly respond to NFA's requests for records; and violated NFA Compliance Rule 2-13 by failing to include required performance information and an updated break-even analysis in the Fund's disclosure document; failing to maintain required records; and failing to provide timely account statements to the Fund's participants.

## II

### **OFFER OF SETTLEMENT**

Without admitting or denying the allegations of the Complaint, Plutus and Philips submitted an Offer in which they proposed to settle the charges against them on the following terms:

1. Plutus agreed to withdraw from NFA membership and, thereafter, not reapply for NFA membership status, in any capacity, and be permanently barred from NFA and from acting as a principal of an NFA Member; and
2. Philips agreed to withdraw from NFA associate membership and as a principal of Plutus, and, thereafter, not apply for NFA membership, or reapply for NFA associate membership, or act as a principal of an NFA Member for a period of 1 year (commencing on the date that the Fund is liquidated and Plutus files a liquidating statement for the Fund which is acceptable to NFA) and pay a \$25,000 fine if he again seeks NFA membership or principal status after the expiration of his one year membership bar.

## III

### **PENALTY**

Having considered the matter and having accepted the Offer of Plutus and Philips, the Hearing Panel orders as follows:

1. Plutus shall withdraw from NFA membership and, thereafter, not reapply for NFA membership status, in any capacity, and be

permanently barred from NFA and from acting as a principal of an NFA Member; and

2. Philips shall withdraw from NFA associate membership and as a principal of Plutus, and, thereafter, not apply for NFA membership, or reapply for NFA associate membership, or act as a principal of an NFA Member for a period of 1 year (commencing on the date that the Fund is liquidated and Plutus files a liquidating statement for the Fund which is acceptable to NFA) and pay a \$25,000 fine if he again seeks NFA membership or principal status after the expiration of his one year membership bar.

This Decision accepting the Offer shall operate to bar any future BCC Complaints against Plutus and Philips for the conduct alleged in the Complaint in this case and shall constitute part of Philips' disciplinary history and may be considered in a subsequent disciplinary case on the issue of sanctions.

#### IV

#### INELIGIBILITY

Pursuant to the provisions of Commodity Futures Trading Commission (CFTC) Regulation 1.63, this Decision and the sanctions imposed herein render Philips ineligible to serve on a disciplinary committee, arbitration panel, oversight panel or governing board of any self-regulatory organization, as that term is defined in CFTC Regulation 1.63, until the later of three years after the effective date of this Decision, or until he has satisfied all the sanctions and conditions imposed by this Decision.

#### NATIONAL FUTURES ASSOCIATION HEARING PANEL

Date: 10/29/2019

By: Maria Matthews Harris  
Chairperson