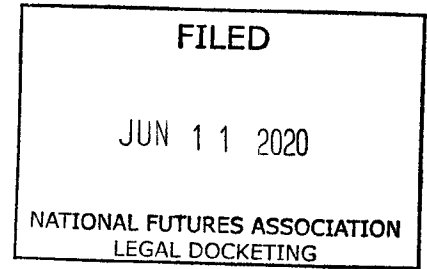


**NATIONAL FUTURES ASSOCIATION
BEFORE THE
BUSINESS CONDUCT COMMITTEE**



POSTROCK BROKERAGE LLC)
(NFA ID# 413763),)
)
and) NFA Case No. 20-BCC-008
)
KEVIN MEYER)
(NFA ID# 339372))
)
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 Compliance Rules (NFA Requirements) are being, have been, or are about to be violated and that the matter should be adjudicated, this Committee issues this Complaint against Postrock Brokerage LLC (Postrock) and Kevin Meyer (Meyer).

ALLEGATIONS

JURISDICTION

1. Postrock was a Member of NFA from January 29, 2010 until May 18, 2020. As such, Postrock was required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.
2. Meyer was an NFA Associate from January 29, 2010 to May 18, 2020. As such, Meyer was required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Postrock is liable for violations of

NFA Requirements committed by Meyer during the course of his activities on behalf of Postrock.

BACKGROUND

3. Postrock has been registered as an introducing broker since January 29, 2010. The firm is located in Chicago, Illinois. At the time of the activities alleged in this Complaint, Postrock was an NFA Member.
4. Meyer has been an owner and principal of Postrock since September 2009 and an associated person (AP) of the firm since January 29, 2010. Meyer was an NFA Associate at the time of the activities alleged in this Complaint and has been at various times since 2004.
5. NFA conducted its most recent examination of Postrock in January 2019 at which time the firm had approximately 400 customer accounts, most of which were self-directed accounts to which Postrock routinely provided trade recommendations. Over half of Postrock's customer accounts were hedge accounts. The firm also introduced 21 discretionary accounts, eight of which were directed by Postrock's APs and the others by third-party commodity trading advisors. At the time of NFA's January 2019 exam, the firm had four branch offices and 13 APs.
6. In March 2020, this Committee issued a disciplinary Complaint against Jeremy Ruth (Ruth), who was an AP of Postrock from September 2017 to May 2019. The Complaint against Ruth charged him with violations of NFA Compliance Rules 2-2(a) and 2-4 for failing to disclose the impact of commissions on customers' profit potential; placing trades for customers which offered no economic benefit to them and, instead, only generated additional commissions; making misleading

statements to customers; and failing to disclose to customers that all of Ruth's other customers had lost money.

7. The Complaint against Ruth also charged him with violations of NFA Compliance Rule 2-2(a) or, alternatively, NFA Compliance Rule 2-8(a), for making unauthorized trades for customers or exercising discretion over customer accounts without obtaining written authority from the customers to exercise such discretion.
8. Postrock is liable for the violations of NFA Requirements alleged against Ruth in the aforementioned BCC Complaint, all of which were committed by Ruth during the course of his activities on behalf of Postrock. A copy of the Complaint against Ruth (hereinafter referred to as the "Ruth Complaint") is attached hereto as Exhibit A. The allegations set forth in the Ruth Complaint are realleged and incorporated herein.
9. In addition to being vicariously liable for the violations as alleged in the Ruth Complaint, Postrock and Meyer are also liable for failing to diligently supervise Ruth.

APPLICABLE RULES

10. NFA Compliance Rule 2-2(a) provides, in pertinent part, that no Member or Associate shall cheat, defraud or deceive, or attempt to cheat, defraud or deceive, any commodity futures customer.
11. NFA Compliance Rule 2-4 provides that Members and Associates shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of their commodity futures business. A related Interpretive Notice

entitled, "Commissions, Fees and Other Charges," requires NFA Members and Associates who charge high commissions to disclose to customers the impact of commissions and fees on profit potential. The Interpretive Notice also makes clear that a Member or Associate who recommends transactions or strategies to retail customers to increase the amount of commissions and fees generated, without serving any economic or other purpose for the customers, violates high standards of commercial honor and just and equitable principles of trade.

12. NFA Compliance Rule 2-8(a) provides, in pertinent part, that no Member or Associate shall exercise discretion over a customer's commodity futures account unless the customer or account controller has authorized the Member or Associate, in writing, by power of attorney or other instrument, to exercise such discretion.
13. 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

VIOLATION OF NFA COMPLIANCE RULES 2-2(a) AND 2-4: FAILING TO DISCLOSE THE IMPACT OF COMMISSIONS ON CUSTOMERS' PROFIT POTENTIAL; PLACING TRADES FOR CUSTOMERS WHICH OFFERED NO ECONOMIC BENEFIT TO THEM AND, INSTEAD, ONLY GENERATED ADDITIONAL COMMISSIONS; MAKING MISLEADING STATEMENTS TO CUSTOMERS; AND FAILING TO DISCLOSE TO CUSTOMERS THAT ALL OF RUTH'S OTHER CUSTOMERS HAD LOST MONEY.

14. The allegations contained in paragraphs 1 through 6, 8, 10 and 11 of the instant Complaint are realleged as paragraph 14.

15. The allegations contained in paragraphs 1 through 8, 10, and 15 through 54 of the Ruth Complaint are incorporated herein and realleged as paragraph 15.
16. By reason of the foregoing acts and omissions, Postrock is charged with violations of NFA Compliance Rules 2-2(a) and 2-4.

COUNT II

VIOLATIONS OF NFA COMPLIANCE RULE 2-2(a) OR NFA COMPLIANCE RULE 2-8(a): MAKING UNAUTHORIZED TRADES FOR CUSTOMERS OR EXERCISING DISCRETION OVER CUSTOMERS' ACCOUNTS WITHOUT OBTAINING WRITTEN AUTHORITY FROM THE CUSTOMERS TO EXERCISE SUCH DISCRETION.

17. The allegations contained in paragraphs 1 through 5, 7, 8, 10 and 12 of the instant Complaint are realleged as paragraph 17.
18. The allegations contained in paragraphs 1 through 7, 9, and 57 through 60 of the Ruth Complaint are incorporated herein and realleged as paragraph 18.
19. By reason of the foregoing acts and omissions, Postrock is charged with violations of NFA Compliance Rule 2-2(a) or, alternatively, NFA Compliance Rule 2-8(a).

COUNT III

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

20. The allegations contained in paragraphs 1 through 9, and 13 of the instant Complaint are realleged as paragraph 20.
21. The allegations contained in paragraphs 1 through 10, 15 through 54, and 57 through 60 of the Ruth Complaint are incorporated herein and realleged as paragraph 21.
22. At the time of NFA's exam in January 2019, Postrock's organizational chart listed Meyer as the supervisor of all APs and branch offices. Postrock's written supervisory procedures also identified Meyer as the firm's supervising principal

and chief compliance officer, who was "responsible for over-seeing branch offices and supervising associated persons in their customer communications, solicitation, order taking, promotional material, and discretionary trading activity." According to these supervisory procedures, Meyer was also responsible for investigating and responding to customer complaints, deciding disciplinary measures for APs' misconduct, and supervising Postrock's branch offices. It is difficult to discern, however, what exactly Meyer did insofar as supervision is concerned.

23. According to Postrock, the first indication the firm had of any problems with Ruth was when it received a complaint against Ruth from a customer (Customer #1) in August 2018. Customer #1 first complained to Ruth on July 13, 2018, alleging that Ruth had misled him about the profitability of his account and had charged him excessive commissions and fees causing him to sustain large losses. However, Ruth did not report Customer #1's complaint to anyone at Postrock until August 6, 2018, when Ruth received an e-mail from Customer #1 in which he reiterated his allegations against Ruth and requested that his complaint be forwarded to Postrock's compliance department.
24. Customer #1's experience with Ruth was very similar to that of Ruth's other customers who are discussed in Count I of this Complaint. Customer #1 opened his account in April 2018 with a deposit of \$25,000 and, in approximately three months, his account lost \$17,876, including commissions of \$7,050. Similar to Ruth's other customers, Ruth recommended to Customer #1 multi-legged spreads trades, which maximized commissions for Postrock, but offered Customer #1 little,

if any, economic benefit. Ruth also misrepresented to Customer #1 the performance of his account by telling him that the value of his account was more than its actual liquidating value.

25. After receiving Customer #1's complaint, Postrock and Meyer's supervisory responsibilities became even more clear-cut as now they were on notice that there were problems with Ruth's trading strategy and his communications with his customers. Nevertheless, there is no record that Meyer – after receiving Customer #1's complaint – commenced any review, let alone a heightened review, of Ruth's tape-recorded conversations with his customers or the activity in their accounts.
26. Postrock and Meyer had an obligation to diligently supervise Ruth from the time he commenced his employment with Postrock. Such supervision should have included periodic review of Ruth's tape-recorded conversations with his customers, which tapes were readily accessible to Meyer. It should also have included a review of the trading activity in the accounts of Ruth's customers and the commissions charged to those accounts, which information was also readily available to Meyer.
27. Yet, it does not appear that Meyer conducted any meaningful review, if any review at all, of Ruth's tape-recorded conversations or the activity in Ruth's customers' accounts. Had Meyer performed these reviews, he almost certainly would have discovered Ruth's unauthorized trading, his misleading statements to customers about the value of their accounts, and his abusive trading strategy which – by

generating excessive commissions – made it nearly impossible for Ruth's customers to make money.

28. Despite failing to look into Ruth's trading strategy and communications with his customers, Meyer clearly had concerns about Ruth as demonstrated by an "internal moratorium" Postrock imposed on Ruth in November 2018 which prevented him from opening or funding any new accounts. The firm indicated that this "internal moratorium" was partly occasioned by Customer #1's complaint. However, aside from imposing the "internal moratorium," it does not appear that Postrock and Meyer made any additional efforts to supervise Ruth.
29. Postrock continued to employ Ruth until May 1, 2019, when NFA met with Meyer, Ruth and another Postrock employee to discuss Ruth's numerous instances of misconduct in the way he traded his customers' accounts and misled them about the value of their accounts. In its response to NFA's June 14, 2019 exam report, Postrock represented to NFA that it "was shocked to learn of Ruth's behavior [at the May 1st meeting]...and immediately terminated Ruth upon learning of it..."
30. However, Postrock and Meyer waited too long to take Ruth's misconduct seriously for the four customers discussed in the Ruth Complaint. After employing Ruth, had Postrock and Meyer commenced to review on an ongoing basis the trading activity in Ruth's customers' accounts as well as Ruth's tape-recorded conversations with customers, they could not have failed to discover Ruth's misleading statements, his unauthorized trading, and his abusive trading strategy designed to produce as much commission income as possible without regard to

his customers' best interests. Their failure to take these steps constituted a failure to diligently supervise and monitor Ruth.

31. By reason of the forgoing acts and omissions, Postrock and Meyer 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 South Riverside Plaza, Suite 1800
Chicago, Illinois 60606
Attn: Legal Department-Docketing
E-Mail: Docketing@nfa.futures.org
Facsimile: 312-781-1672

POTENTIAL PENALTIES, DISQUALIFICATION AND INELIGIBILITY

At the conclusion of the proceedings conducted in connection with the issuance of this Complaint, the Committee 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 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: 06-11-2020

By: _____


Chairperson

m/rvh/Postrock Complaint