

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

ARGO WEALTH MANAGEMENT, INC.)
(NFA ID #375584),)
)
DANIEL MORRIS MILLER)
(NFA ID #284125),)
)
 AND)
)
JOEL VINCENT NEWCOMB)
(NFA ID #314371),)
)
 Respondents.)

NFA Case No. 20-BCC-011

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 Argo Wealth Management, Inc. (Argo), Daniel Morris Miller (Miller), and Joel Vincent Newcomb (Newcomb).

ALLEGATIONS

JURISDICTION

1. At all times relevant to this Complaint, Argo was a commodity pool operator NFA Member located in Akron, Ohio. As such, Argo 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, Miller was Argo's sole principal and associated person and an NFA Associate. As such, Miller was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Argo is liable for violations of NFA Requirements committed by Miller during the course of his activities on behalf of Argo.
3. Newcomb was also an AP and principal of Argo from September 2018 to early February 2019, when he became an independent commodity trading advisor. As such, Newcomb was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Argo is liable for violations of NFA Requirements committed by Newcomb during the course of his activities on behalf of Argo.

BACKGROUND

4. Argo was registered as a CPO from 2006 to 2016 and again from September 2018 to the present.
5. Miller has been an NFA Associate since 1998. In addition to Argo (the CPO), Miller also operates Argo Futures Group Inc., a firm that became registered as an IB in March 2020. Miller was previously an AP of Postrock Brokerage LLC (Postrock), an IB that was prohibited from reapplying for NFA membership based on a Decision that this Committee issued on August 6, 2020.
6. Newcomb has worked for several firms in the futures and securities industries for nearly twenty years, but currently has no NFA membership status. In addition to working at Argo, Newcomb – like Miller – also worked as an AP of Postrock.
7. NFA commenced an exam of Argo in June 2019, after obtaining information during an examination of Postrock concerning an account that Postrock

introduced for a pool operated by Argo, called Aurora Hill Ltd. (hereafter to referred to as "the Aurora pool" or "the pool").

8. The Aurora pool was active for a brief time in 2014 and 2015 as a non-exempt forex pool and then was dormant until September 2018, when it began trading again using a different trading strategy.
9. After Aurora was reactivated in September 2018, the pool had four pool participants – who are referred to herein as Participant #1, Participant #2, Participant #3, and Participant #4.
10. Participant #1 invested approximately \$780,000 in the pool in September 2018; Participant #2 invested \$100,000 in the pool in November 2018; Participant #3 invested approximately \$200,000 in the pool in January 2019; and Participant #4 invested \$60,000 in the pool in February 2019. Total investments in the Aurora pool amounted to approximately \$1,140,000.
11. According to the Aurora pool's September 15, 2018 private placement memorandum (PPM), approximately 5% of the pool's actual assets would be traded by Argo, the CPO and general partner of the pool, and the remaining pool assets would be traded by several third-party CTAs using different trading strategies. The PPM represented that Argo's trading program would focus on day trading stock index futures contracts, almost exclusively in the E-Mini S&P futures contract, with Newcomb making the trading decisions, as Argo's trading principal.
12. Also, according to the PPM, the pool's trading accounts managed by the CTAs would be introduced by Postrock, which would charge commissions and fees of \$8.00 per round-turn. The PPM disclosed that Miller and Newcomb, as APs of

the IB, would each receive a portion of the IB's commission charges on the pool's accounts managed by the CTAs. However, it appears that only Miller, and not Newcomb, received a portion of the IB's commission charges.

13. The PPM stated that the third-party CTAs would charge management fees of 2% annually, based on the nominal value of the accounts under their management, and incentive fees of 20% of the profits generated. However, the CTA management and incentive fees were not a big factor in the Aurora pool's fees, as the third-party CTAs conducted little trading of the pool assets, comparative to Argo and Newcomb.
14. The PPM also provided that the pool's trading accounts managed by Argo would be charged an average of \$58.00 per round-turn transaction, including all fees. This \$58.00 fee included a "commission rebate" described in the PPM as a "rebate" payable to Argo of \$50.00 per round-turn brokerage commissions from the accounts Argo managed.
15. However, "commission rebate" was a misleading term since this "rebate" had nothing to do with a refund of any "brokerage commissions" charged by the FCM. In actuality, the "rebate" was an additional fee that Argo and Miller arbitrarily charged the pool at the end of each month. (Argo did not always charge the full \$50 commission rebate to the pool and sometimes charged less than that – even, on occasion, charging as little as \$5 per round-turn.)
16. The PPM also was misleading since it failed to clearly disclose that the remainder of the \$58.00 fee represented commission and fee charges paid to the FCM and the IB who introduced the account of \$8.00 per round-turn. This meant

that Miller – as an AP of the IB – could also receive a portion of the IB's commission charges on the trading of the pool's assets by Argo.

17. In addition, the PPM permitted Argo to charge a 2% annual management fee based on the value of each pool participant's capital account and a monthly performance fee of up to 20% of any profits in a participant's capital account.
18. The PPM disclosed that Argo had a financial incentive to more actively trade the pool's account since the firm would be compensated on a per-trade basis and receive a direct financial benefit from the volume of Argo's trading of the pool's account. The PPM also stated that Argo "has no intention of trading in any manner not consistent with the criteria described" in the PPM.
19. In actuality, however, Argo downplayed in the PPM the significance of the trading that Argo and Newcomb would conduct, in comparison to the third-party CTAs. Argo, Miller and Newcomb also failed to disclose the impact of the arbitrary fee (i.e., the "commission rebates") on the Aurora pool's profit potential, which fee only benefitted Argo, Miller and Newcomb by generating additional commissions. In addition, Argo, Miller and Newcomb failed to adequately disclose the extent of the fees and commissions that would be charged to the Aurora pool and the degree to which they would impact the pool's net asset value (NAV).
20. Argo, Miller and Newcomb also engaged in deceptive and misleading communications with prospective and existing pool participants. In addition, Argo and Miller used deceptive and misleading promotional material, which included the firm's PPM, and also failed to diligently supervise the activities of Argo and its employees and agents.

APPLICABLE RULES

21. 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.
22. 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 any fee arrangement which is intended to or is likely to deceive customers violates NFA Requirements.
23. 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.
24. NFA Compliance Rule 2-29(a)(1) provides that no Member or Associate shall make any communication with the public which operates as a fraud or deceit.
25. NFA Compliance Rules 2-29(b)(1) provides, in pertinent part, that no Member or Associate shall use any promotional material which is likely to deceive the public.

COUNT I

VIOLATIONS OF NFA COMPLIANCE RULE 2-4: FAILURE TO DISCLOSE THE IMPACT OF THE ARBITRARY FEES (I.E., "COMMISSION REBATES") IMPOSED BY ARGO ON THE POOL'S PROFIT POTENTIAL; AND FAILURE TO ADEQUATELY DISCLOSE THE EXTENT OF THE FEES AND COMMISSIONS THAT WOULD BE CHARGED TO THE POOL AND THEIR SIGNIFICANT IMPACT ON THE POOL'S NET ASSET VALUE.

26. The allegations contained in paragraphs 1 through 19 and 22 are realleged as paragraph 26.
27. As alleged above, Argo's PPM implied that Argo would trade a small portion of the Aurora pool. However, in reality, Newcomb conducted most of the pool's trading, initially as an AP of Argo and later as a CTA.
28. As disclosed in the PPM, Newcomb primarily day traded E-Mini S&P 500 futures contracts for the pool. Newcomb commenced trading for the Aurora pool in October 2018, when he was an AP of Argo. During the first month of trading alone, Newcomb made nearly 2,200 trades, with respect to which Argo imposed the arbitrary fee of approximately \$49 per round-turn (i.e., the "commission rebate"). This "commission rebate" cost the pool more than \$107,500.
29. While an AP of Argo, Newcomb's trading from October 2018 through January 2019 resulted in a gross profit of approximately \$378,000. However, Argo's "commission rebates" of more than \$280,000 (of which Newcomb received \$98,000), plus other commissions and fees, consumed more than \$332,000, or approximately 86% of those gross profits.
30. In January 2019, Newcomb registered as a sole proprietor CTA NFA Member, d/b/a One Iron Capital. Thereafter, Newcomb continued trading the pool's assets in his capacity as an independent CTA but, in that capacity, he does not appear

to have received any compensation or portion of the "commission rebates," which went solely to Argo and Miller.

31. Thus, after Newcomb became an independent CTA, Argo and Miller continued to have a financial incentive for Newcomb to aggressively trade the pool's account as it yielded more "commission rebates" and IB brokerage commissions for them. For this apparent reason, Argo and Miller did nothing to halt or reduce Newcomb's aggressive trading as it served their financial interest for Newcomb to continue to aggressively trade the pool's account.
32. In addition, Argo and Miller traded for the pool after Newcomb became a CTA. Although Argo and Miller did not receive "commission rebates" on the trades they placed for the pool, they did receive a portion of the approximately \$70,000 in IB brokerage commissions that the pool was charged.
33. Argo, Miller and Newcomb continued trading for the pool until October 2019 when the pool ceased trading. During this time, the pool suffered trading losses amounting to more than \$560,000 and its NAV declined to approximately \$60,000 (which also reflects redemptions of approximately \$155,000 by two pool participants).
34. Although, as previously alleged, Newcomb no longer shared in Argo and Miller's arbitrary "commission rebates" after he became a CTA, his trading of the pool enabled Argo and Miller to collect additional "commission rebates" of approximately \$225,000. (As alleged above, other third-party CTAs did very little trading, comparatively, for the pool.)

35. The trading scheme that Argo, Miller and Newcomb devised and implemented was unconscionable and, within a year, substantially depleted the Aurora pool's assets, while enriching Argo, Miller and, to a lesser degree, Newcomb.
36. The key elements to Argo, Miller and Newcomb's trading scheme involved Argo's arbitrary "commission rebate" of up to \$50 per round-turn (which per round-turn fee was later reduced in March 2019) that incentivized Argo and/or Newcomb to aggressively trade the pool in order to generate an extremely large number of trades for the pool and, in turn, a large number of "commission rebates" payable to Argo.
37. Between October 2018, when the pool commenced trading, and October 2019, when it ceased trading, Newcomb, initially as an AP of Argo and then later as a CTA, placed over 28,000 round-turn trades for the pool. Based on this trading, Argo collected "commission rebates" from the pool of over \$510,000, amounting to over 45% of the four participants' total investments in the pool. In comparison, the third-party CTAs placed less than 3,300 trades during the life of the pool.
38. In addition to the "commission rebates," the Aurora pool paid other various fees and expenses (e.g., brokerage commissions, general partner management and performance fees, legal/accounting expenses), amounting to approximately \$275,000, with almost \$200,000 of this amount representing IB commissions. As alleged above, Miller also received a portion of the \$200,000 commissions for the time when he was an AP of the IB. In contrast, the management and incentive fees paid to the third-party CTAs amounted to less than \$17,000 overall.
39. In total, the pool paid more than \$802,000 in commissions, fees and expenses. These costs consumed more than 70% of the Aurora pool's total contributions.

40. As a result of the large amount of "commission rebates" and other fees and expenses charged to the pool, together with trading losses of close to \$127,000, all of the pool participants suffered significant losses. Participant #1 lost over \$720,000 of her approximately \$780,000 investment; Participant #2 lost nearly \$69,000 of her \$100,000 investment; Participant #3 lost over \$104,000 of his \$200,000 investment; and Participant #4 lost approximately \$33,500 of his \$60,000 investment.
41. Participant #2 received a copy of Argo's PPM, but did not read it in detail. She said she discussed the basics of the pool with Miller, but there was no discussion of the fees before she invested in the pool. Participant #3 – when he initially invested in the Aurora pool – believed the only fees involved were the 2/20 management and incentive fees that CTAs typically charged, plus the standard costs associated with a trading account.
42. As things turned out, the commissions ended up being far more than what Participant #3 expected, and he considered the commissions to be excessive. Participant #3 said he talked to Miller about the pool's losses and the CTA allocations, but did not receive a straight answer from Miller, who deflected by saying that he did not have "an easy answer" to Participant #3's questions.
43. Participant #4, who invested \$60,000 in the pool in February 2019, was also unhappy with the pool's performance after he received his initial statement in April and saw he had lost 40% of his investment. In addition, Participant #4, – along with Participant #1 – specifically questioned Argo's commission structure after trading commenced, but failed to receive a satisfactory answer about the commission charges.

44. Argo, Miller and Newcomb failed to adequately disclose to the Aurora pool participants the impact of commissions and fees on the pool's profit potential. These commissions and fees mainly consisted of the "commission rebate" (which, as alleged above, was actually just an arbitrary, additional commission charged to the Aurora pool rather than a rebate), that quickly added up based on Newcomb's aggressive day trading of stock index futures.
45. The combination of the high "commission rebate" and the aggressive trading served to benefit Argo, Miller, and Newcomb. Combined with the other fees and expenses charged to the pool, the pool was ultimately unable to overcome the high charges, with the result that the pool participants all suffered substantial losses.
46. In addition to not disclosing the impact of the commissions and fees on profitability, Argo, Miller and Newcomb failed to disclose the magnitude of the fees and expenses that the pool would pay. As alleged above, the "commission rebate" and other fees and expenses charged to the pool totaled more than \$780,000. This represented a break-even point of over 70% needed to cover the pool's costs and expenses, which Argo, Miller and Newcomb never disclosed to the participants.
47. By failing to adequately disclose the impact of the fees and the arbitrary "commission rebates" on profitability, or the extent of the fees and commissions that would be charged to the pool, Argo, Miller, and Newcomb's conduct fell short of the high standards of commercial honor and just and equitable principles of trade required of NFA Members and Associates.

48. By reason of the foregoing acts and omissions, Argo, Miller, and Newcomb are charged with violations of NFA Compliance Rule 2-4.

COUNT II

VIOLATIONS OF NFA COMPLIANCE RULES 2-2(a) AND 2-29(a)(1) AND 2-29(b)(1): ENGAGING IN DECEPTIVE AND MISLEADING COMMUNICATIONS; USING DECEPTIVE AND MISLEADING PROMOTIONAL MATERIAL; CHARACTERIZING THE ARBITRARY FEE ARRANGEMENT AS A "COMMISSION REBATE;" AND DOWNPLAYING IN THE PRIVATE PLACEMENT MEMORANDUM THE VOLUME OF TRADES THAT ARGO AND NEWCOMB WOULD PLACE, IN COMPARISON TO THE THIRD-PARTY CTAS.

49. The allegations contained in paragraphs 1 through 22, 24 and 25, 27 through 47 are realleged as paragraph 49.
50. In addition to not disclosing the impact of the commissions and fees on profitability and the magnitude of the fees and expenses that the pool would pay, NFA's 2019 exam found that Argo, Miller and Newcomb also engaged in misleading communications with potential and/or existing pool participants and that Argo and Miller utilized deceptive and misleading promotional material, which included the pool's PPM.

Newcomb's Misleading Solicitation

51. As alleged above, Participant #1 invested approximately \$780,000 in the Aurora pool in September 2018. Participant #1 was solicited to invest in the pool by Newcomb, who had previously traded for Participant #1 when he was an AP of Postrock.
52. When soliciting Participant #1 to invest in the pool, Newcomb told her that, if she invested in the pool, her overall costs would be lower, which was a total fabrication as Participant #1's overall costs increased substantially after she

invested in the pool. Specifically, Participant #1 paid approximately \$47,000 in commission and fee charges during the three-month period she was a customer of Newcomb's at Postrock. In contrast, during the first month of her investment in the Aurora pool, she paid more than \$107,000 just in "commission rebates".

Argo and Miller's Use of Misleading Communications and Promotional Material

53. As alleged above, Argo's PPM was misleading regarding the Aurora pool's commissions and fee charges, especially Argo and Miller's characterization of the arbitrary fee arrangement in the PPM as a "commission rebate." In addition, the implication in the PPM that the third-party CTAs would conduct the majority of the trading was deceptive and misleading.
54. In addition, the PPM was deceiving in other ways. As alleged above, the Aurora pool traded in 2014 and 2015. The pool's actual rates of return exceeded negative 40% for 2014 and exceeded negative 56% for 2015.
55. Argo claimed in the PPM that during much of the period when the Aurora pool traded initially, all or a majority of pool's interests were owned by APs or principals of Argo and, therefore, claimed the pool's past performance would be considered proprietary under CFTC Regulations. However, this description was misleading since funds from non-proprietary investors represented a substantial portion of the pool's assets in 2014 and up until early 2015. The PPM also failed to disclose the pool's negative trading results, alleged above. Therefore, these omissions made Argo's discussion in the PPM of Aurora's past performance misleading.
56. Argo and Miller also used other promotional material in a misleading manner. Specifically, on September 27, 2018, Miller sent separate e-mails to three

prospective investors to solicit them for the Aurora pool. In the e-mails, Miller claimed that the pool's strategy "averaged over 19% per year collectively since inception" and "averaged 19% per year net of fees" in addition to being a "diversified, low volatility, low-margin equity" investment. Argo claimed that the 19% rate of return touted by Miller in the e-mails referred to hypothetical trading and pointed out that the above e-mails included a glossy attachment that discussed hypothetical trading. However, the e-mails, themselves, said absolutely nothing about the 19% rate of return being hypothetical.

57. Moreover, the glossy attachment created the impression that the pool would be traded by third-party CTAs who had overall positive track records from June 2015 through August 2018. However, neither the glossy attachment nor the accompanying e-mail made any mention that a portion of the pool's assets would be allocated to Argo and/or Newcomb for trading. This omission was material since, as alleged above, Argo and/or Newcomb conducted most of the trading once the pool commenced operations.
58. Further, even though Argo changed the pool's trading strategy in 2018 and the pool had no performance to report for the new strategy at the time Miller distributed the glossy attachment, Miller nevertheless should have included the pool's prior rates of return in the attachment or in the September 2018 e-mail, in light of the severity of the pool's previous negative returns.
59. In addition to distributing the misleading promotional material to three prospective investors, Argo and Miller disseminated similar misleading promotional material regarding the Aurora pool that at least Participant #4 received in February 2019. The material consisted of an e-mail and two attachments. One attachment

included trading performance for the third-party CTAs, through December 31, 2018. However, there was no mention in the attachment or the e-mail that Argo and Newcomb had conducted the majority of the trading during this time.

60. The other attachment purportedly represented the pool's performance for October through December 2018 and included a reference in the "performance table" to a \$25.00 "commission rebate" rate charged to the pool during this period, which amounted to \$181,704. However, the "commission rebate" rate that Argo charged during this time was actually closer to \$50.00 per round-turn and amounted to approximately \$260,000. Further, the performance table indicated the pool's rate of return (ROR) totaled more than 8% during this time, while the actual ROR was closer to negative 3%.
61. By reason of the foregoing acts and omissions, Newcomb is charged with violations of NFA Compliance Rules 2-2(a) and 2-29(a)(1); and Argo and Miller are charged with violations of NFA Compliance Rules 2-2(a); 2-29(a)(1) and 2-29(b)(1).

COUNT III

VIOLATIONS OF NFA COMPLIANCE RULES 2-9(a): FAILURE TO SUPERVISE.

62. The allegations contained in paragraphs 1 through 20, 23, 27 through 47, and 50 through 60 are realleged as paragraph 62.
63. Miller was Argo's founder, owner, principal, and AP. As such, he was responsible for supervising the activities and personnel of the firm to ensure compliance with NFA Requirements.

64. The fact that the aggressive trading strategy used by Argo and Newcomb continued unabated for nearly a year demonstrates that Miller failed to adequately supervise and monitor the firm's and Newcomb's trading activity.
65. Moreover, Miller not only failed to supervise the firm's use of promotional material, he actively participated in disseminating deceptive promotional material, including the firm's PPM, to prospective customers.
66. As such, Miller and Argo failed to comply with their obligations to diligently supervise Argo's employees and agents in the conduct of their futures activities on behalf of Argo.
67. By reason of the foregoing acts and omissions, Argo and Miller 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 Answer must be filed by email to the following address:

Docketing@nfa.futures.org

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 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.

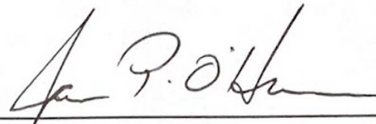
The allegations in this Complaint may constitute a statutory disqualification from registration under Section 8a(3)(M) of the Commodity Exchange Act.

Respondents in this matter who apply for registration in any new capacity, including as an associated person 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: August 13, 2020

By: 
Chairperson

M/RVH/Argo Complaint