

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

DAFEX GLOBAL LTD.)	
(NFA ID #527853),)	
)	
AND)	NFA Case No. 20-BCC-012
)	
YURY EPSTEIN)	
(NFA ID #419174),)	
)	
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 Requirements are being, have been, or are about to be violated and that the matter should be adjudicated, this Committee issues this Complaint against Dafex Global Ltd. (Dafex) and Yury Epstein (Epstein).

ALLEGATIONS

JURISDICTION

1. Dafex has been registered with the Commodity Futures Trading Commission (CFTC) as a commodity pool operator (CPO) and commodity trading adviser (CTA), and approved as a NFA Member since May 20, 2020. As such, Dafex was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.
2. Epstein has been registered as an associated person (AP) of Dafex, and approved as a NFA Associate since May 20, 2020. As such, Epstein was and is required to comply with NFA Requirements and is subject to disciplinary

proceedings for violations thereof. Dafex is liable for violations of NFA Requirements committed by Epstein during the course of his activities on behalf of Dafex.

BACKGROUND

3. Dafex became registered as a CPO on May 20, 2020 and, on the same date, also became a NFA Member. On June 26, 2020, Dafex became registered as a CTA.
4. Epstein is an NFA Associate and has been at various times since March 2010. Epstein is Dafex's only AP and has been since May 20, 2020. Up until July 20, he was also listed as a principal of the firm.
5. Nithyanandan Pushparaja (Pushparaja) is a principal of Dafex and has been since May 15, 2020. Pushparaja has no CFTC registration or NFA membership status.
6. Dafex is currently pending withdrawal from NFA membership since the firm does not have an AP who is also a principal of the firm (called an "AP/principal"), as required under NFA's Bylaws.
7. Specifically, NFA Bylaw 301(a)(iv) requires each NFA Member to have an AP who is also a principal. The purpose of this requirement is to ensure NFA has jurisdiction over at least one principal of every Member since an AP is also an NFA Associate. If, after NFA membership is granted, the Member no longer has an AP/principal affiliated with it, NFA treats the occurrence as a request to withdraw the firm's NFA membership. The withdrawal will become effective within 30 days unless the firm has listed an AP/principal.

8. As alleged in more detail below, Dafex's membership is pending withdrawal because NFA deleted any reference to the principal status of Epstein – who, until recently, was the firm's sole listed AP/principal – after NFA verified that individuals acting on Dafex's behalf falsely listed Epstein as a principal in order to obtain NFA membership and CFTC registration status.

Epstein's Notification to NFA

9. On May 21, 2020, NFA received a telephone call from Epstein. Epstein told NFA that he had just started working for Dafex as an AP, but discovered he had also been listed as a principal of the firm. Epstein said agreed to be an AP of Dafex, but told NFA that he did not agree to be listed as a principal of Dafex or qualify as one since he did not own 10% or more of the firm, had no control over the firm, and did not have any official title or position with the firm, except as an AP.
10. According to Epstein, a representative of Dafex attempted to persuade him to become listed as a principal of the firm. However, Epstein said he knew that if he became listed as the firm's sole AP/principal, NFA would contact him with questions or inquiries during an exam and could hold him responsible for any problems found at the firm, which might result in a disciplinary action against him. For these reasons, Epstein said he told Dafex he was unwilling to become listed as a principal of the firm due to the potential regulatory implications.
11. Epstein told NFA that he believed the unauthorized principal status was added when someone affiliated with Dafex submitted and verified his Form 8-R application to become an AP. Epstein said he found out he had been added as a

principal when he checked NFA's BASIC system, which led him to contact NFA after making this discovery. Based on this information, NFA commenced an investigation to verify Epstein's representations.

Dafex's CFTC Registration and NFA Membership Filings

12. NFA reviewed its online registration system (ORS) and found that, on January 27, 2020, an individual named Joy Wu (Wu) filed a Form 7-R for Dafex to apply for CPO registration and NFA membership. Wu apparently is an accountant located in Alhambra, California. Wu is listed in ORS as Dafex's security manager and as the firm's Registration, Enforcement/Compliance, Membership, Accounting and Arbitration contact.
13. On February 10, 2020, Wu filed a Form 8-R on behalf of an individual named Chong Zhao Yang (Yang) to be an AP/principal of Dafex. The Form 8-R specified Yang's title as chief executive officer (CEO) and indicated he did not have a 10% or more ownership interest in the firm. Recent information from Dafex stated Yang's job is "financial analyst and risk assessment." As of May 6, 2020, Yang's AP and principal statuses were withdrawn, most likely because Yang failed the Series 3 examination in early April.
14. On the same day (May 6), Wu filed a Form 8-R for Pushparaja to be an AP and principal of Dafex. The Form 8-R identified Pushparaja as Dafex's CEO and indicated he had a 10% or more ownership interest in the firm.
15. On May 15, Pushparaja's pending statuses in ORS as an AP of Dafex and an NFA Associate were withdrawn, though he was approved on that date as a principal of the firm. At the end of June – after Dafex knew of NFA's inquiry of the firm and

the circumstances involving Epstein being listed as a principal – Wu updated ORS to reflect a title change for Pushparaja, from CEO to the head of a business unit, division or function. Other information from Dafex indicates that Pushparaja is the "head of the technical team" and the firm's sole shareholder.

16. Epstein's representation to NFA that someone else verified his Form 8-R was significant because NFA's registration procedures require that an individual with an application to become registered as an AP, or listed as a principal and/or branch office manager, must file with NFA a verification of the information contained in the application. The independent verification by the individual applicant is important since this is the process by which the applicant confirms the answers and statements contained in the Form 8-R are true, complete and not materially misleading, and agrees to become and remain bound by all applicable NFA Requirements (e.g., NFA Bylaws, Compliance Rules, Registration Rules) if the applicant is granted registration and approved as an NFA Associate.
17. To determine who completed the verification process, NFA reviewed the location of the Internet Protocol (IP) addresses associated with the ORS sessions for the Form 8-R filings of Pushparaja and Epstein and found that the associated IP address apparently belongs to Wu. While ORS shows that Pushparaja and Epstein purportedly verified their 8-R applications on May 15 and May 18, respectively, the IP address associated with each "verification" matched the IP address of the initial filings Wu submitted to NFA on their behalf. As a result, NFA's evidence indicates that Wu used the individual logon IDs of Pushparaja and Epstein to verify their applications, contrary to NFA's registration procedures.

Information Provided to NFA by Epstein and Dafex

18. As part of the investigation, NFA requested additional information from Epstein and Dafex. Although NFA directed its inquiries to Pushparaja as the listed principal of the firm, the firm's marketing manager, Jepherson Ip, responded to most of NFA's questions, while Pushparaja responded to one of NFA's inquiries.
19. Based on a review of the information, it appears that Epstein began communicating with Dafex in early April 2020, in response to a message on LinkedIn from an individual named Eason Sun (Sun). According to information from Ip, Sun is the individual "responsible for contacting the U.S. accountant" (i.e., Wu). Epstein shared the LinkedIn post with NFA, which stated, "We need help from friends with series 3 certificates. If you have this certificate, please contact me." Sun also stated, "We are registering for cpo of nfa and need AP with series 3 certificate. Can you help us?" NFA noted that Sun's LinkedIn posts looking for an AP occurred a few days after Yang failed the Series 3 exam.
20. Epstein responded to the post and indicated he had a Series 3. In exchange for him being an AP of Dafex, Sun said Epstein would receive \$500 per month. During the LinkedIn chat, Epstein asked to set up a phone call so they could discuss the position further.
21. Epstein told NFA that he had an Internet phone call a few days later with someone from Dafex. Epstein said he did not know the name of the person he talked to, but the individual appeared to be Sun's colleague. Epstein said he had assumed originally that the position with Dafex would involve making some sales calls or helping set up the company. However, Epstein said he was told that no

sales would be required as Dafex just needed an AP in the U.S. because Dafex was in the process of obtaining "NFA registration." According to Epstein, the Dafex representative indicated that having "NFA registration" is a "status symbol" in China, which would bring prestige in the eyes of the firm's Chinese-speaking clients and essentially help the firm increase its revenue. The Dafex representative also indicated Epstein would not be able to make any sales calls since the firm's clients were all foreign.

22. Epstein said he told the Dafex representative he would need to discuss this arrangement with others. Epstein said he was instructed to let Dafex know his decision and that the accountant handling the firm's "NFA registration" (i.e., Wu) would assist in registering him as an AP if he decided to move forward. Epstein said no mention was made during the conversation of him becoming listed as a principal of the firm.
23. Epstein continued to communicate with Dafex representatives through April, via the WeChat messaging system, and tried to learn more about the firm's operations. Epstein told NFA that these communications led him to believe that Dafex only had retail foreign clients and was involved in forex, futures and possibly cryptocurrencies.
24. Epstein said he also believed Dafex was located in China, though the firm reported in ORS that its main office is located in Colorado Springs, Colorado. The Colorado address is apparently connected to the registered agent appointed to represent Dafex as a Colorado corporation. Websites and other information NFA reviewed connects Dafex to Malaysia, Russia, and the United Kingdom.

25. After exchanging communications with Dafex, Epstein informed the firm's representatives at the end of April that he was no longer interested in the AP position. However, in early May, Sun wrote back and proposed a one-month arrangement for Epstein to be an AP of the firm, in exchange for compensation of \$3,000. In the communication to Epstein, Sun indicated the coronavirus caused the Series 3 exam to be postponed in Singapore and that Dafex only needed Epstein to be an AP for one month, after which they would "change" to an AP of their own. Sun represented the "current CEO" would take "the AP test" (i.e., the Series 3). No mention of Epstein becoming a principal of Dafex was made during this exchange.
26. Epstein said the information about the coronavirus' delaying the CEO taking the Series 3 exam made sense and led him to believe Dafex intended to become a "serious" registrant with NFA. Therefore, Epstein agreed to be an AP of the firm for one month, with the understanding he would be hired on a temporary basis and not have any compliance liability. Epstein also knew that he would not be engaging in any activities as an AP of the firm during this time.
27. In early May, a representative of Dafex sent Epstein the Form 8-R application and asked him to complete it in order to become the firm's AP. Around the same time, Epstein sent the firm a written agreement for him to be the firm's AP, according to the terms alleged above (e.g., valid for one month for \$3,000, no AP or other duties). Epstein told Sun he would complete the AP application after receiving the signed agreement from Dafex. Sun replied stating, "Please complete the AP form first...Because we are in a hurry...OK?" Pushparaja

apparently executed the agreement on Dafex's behalf, and Sun sent it to Epstein on May 9. Epstein completed the Form 8-R application by hand and e-mailed a scanned copy to the firm on May 11.

28. After receiving the completed application form, Sun started broaching the "principal" issue with Epstein. For example, Sun sent Epstein a message on May 11 stating:

If you look at the AP table...you have to choose a position in order to be an AP. You can choose a position with the least risk in your mind. Of course, it's only in name, you don't have to do any work, and we have a contract, so you don't have to take any risks or responsibilities. Do you understand?

29. The "table" Sun was referencing did not refer to APs, but rather to the titles included under the "Principal Information" section of the Form 8-R. Epstein responded, "yes, let me check what is available." Epstein sent a follow-up message on May 12 regarding choosing the option, "No title listed." The next day, Sun sent the following message:

The accountant asked the NFA today, you can be an AP, but you must choose a principle (sic) title. I've said it many times. It's only in name, and we have an agreement that you won't have any legal liability. So choose a principle (sic) title. Waiting to hear from you.

30. Epstein told NFA that this message was the first mention of him also being a principal of Dafex. He responded to Sun and declined to be listed as a principal of the firm, explaining that NFA would contact him with questions relevant to the company and that he did not want to expose himself to such risk. Sun replied that he did not understand what Epstein was worried about, reminding Epstein of their contract and saying that it is none of Epstein's business if anything goes wrong

since he is an employee "in name only." Sun persisted, but Epstein continued to refuse to be listed as a principal.

31. On May 14, Sun sent another message, falsely indicating that NFA "did not require a principal." This representation led Epstein to believe he could proceed as an AP only. Therefore, he completed the application again, checking off the AP box on page 1 of the form, the "No Listed Title" box under the "Principal Information" section on page 3 of the form, and writing in the stipulation, "not a principal, just AP" in parenthesis, along with his initials at the bottom of the page. Epstein then scanned the document and sent it back to Sun.
32. Sun replied the next day telling Epstein he had filed an 8-R form – presumably with NFA – even though ORS reflects that Wu submitted the application. Sun also asked Epstein to log into ORS to verify everything was entered correctly. However, Epstein told NFA that when he tried to verify the application on ORS, he was unable to access NFA's system with the password Dafex had provided. Therefore, Epstein needed to reset his password. However, Epstein told NFA that he never received the e-mail that would allow him to reset his password, apparently because NFA's records listed Epstein's prior work e-mail address, rather than his personal e-mail address.
33. When Epstein notified Sun about the delay in verifying the application, Sun instructed him to contact Wu for help and told him to "speed it up. We are in a hurry." After Epstein replied he would take care of it the next day, Sun answered that Wu had verified the application. Although Epstein replied to Sun and acknowledged that the application had been verified, Epstein again reiterated that

he was not to be listed as a principal of the firm and asked Sun to confirm "the accountant did not do that."

34. However, when Epstein checked NFA's BASIC system the next day, he discovered he was "pending" as a principal of Dafex. He promptly contacted Sun, asking him to notify NFA that he was an AP only, not a principal. Sun responded and falsely told Epstein, "You are not the principal...you are just an AP." As of May 20, Epstein was listed in NFA's records as a principal of Dafex. Therefore, Epstein sent an e-mail to Sun on May 21, pointing out that NFA's records erroneously reflected him as a principal of the firm. The same day, after speaking to NFA, Epstein sent another e-mail to Sun and asked to be removed as a principal as soon as possible. Epstein also called Wu and asked her to correct the situation.
35. Despite Epstein sending several other e-mails asking Dafex to delist him, and notwithstanding NFA's inquiry of the firm and the circumstances surrounding Epstein being listed as a principal, neither Sun, Wu nor anyone else representing Dafex removed Epstein's invalid principal status. Therefore, NFA deleted Epstein's false principal status in July 2020. As a result, Dafex is currently pending withdrawal from NFA membership since the firm does not have an AP/principal, as required under NFA Bylaw 301(a)(iv).
36. Despite NFA's inquiry of Dafex listing Epstein as a principal without his consent, NFA discovered that Wu, acting on Dafex's behalf, attempted on August 12 to again list Epstein as a principal of the firm – without his consent – in order to prevent the withdrawal of Dafex's membership from becoming effective.

Other Conduct by Dafex and Its Representatives

37. As alleged above, NFA requested documents and information from Dafex to determine what had transpired. The firm's responses included misleading representations to NFA, while other information provided raises questions about Dafex's operations and its reasons for becoming an NFA Member.
38. For example, in answer to NFA's question about why Wu verified Epstein's application to become an AP and listed as a principal of Dafex, the firm's response indicated that Wu verified the application for Epstein who was unable to log in and stated that, "Epstein completely agreed with the whole process." However, this claim is contradicted by Epstein's written communications with Sun. The firm also admitted that Dafex currently has no one working in Colorado, despite listing the location as its main office.
39. Dafex also appears to have failed to comply with temporary relief granted by NFA and the CFTC regarding fingerprinting requirements. Specifically, due to concerns regarding the spread of the coronavirus, NFA temporarily suspended its fingerprinting services in March and filed a letter with the CFTC's Division of Swap Dealer and Intermediary Oversight (DSIO) seeking temporary relief from these requirements. On April 24, 2020, DSIO issued a no-action letter granting temporary relief to registrants and applicants for registration listing a principal, and for applicants for AP registration, from the fingerprinting requirements in CFTC Regulations 3.10(a)(2) (for natural person principals) and 3.12(c)(3) (for APs). The CFTC's relief is conditioned on the following:

- The registrant or applicant for registration listing the principal or sponsoring the AP conducting a criminal history background check that would reveal all matters listed under Sections 8a(2)(D) or 8a(3)(D), (E), or (H) of the Commodity Exchange Act (CEA);
- The registrant or applicant for registration submitting a certification to NFA that it completed the background check and that it did not disclose any matters that constitute a disqualification under Sections 8a(2) or 8a(3) of the CEA; and
- The registrant or applicant for registration maintaining records documenting the completion and results of the background check, in accordance with CFTC Regulation 1.31.

40. NFA asked Dafex to provide records to support its compliance with CFTC Regulation 1.31 to document the completion and results of the background check the firm supposedly conducted of Epstein. While Dafex provided a certification to NFA that it completed the background check, the supporting records were inadequate and consisted of Epstein's resume and another document he created. Based on this response, Dafex apparently failed to conduct a background check of Epstein, contrary to DSIO's no-action letter and NFA's parallel relief.

APPLICABLE RULES

41. NFA Compliance Rule 2-2(f) provides that no Member or Associate shall willfully submit materially false or misleading information to NFA or its agents.
42. 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.

COUNT I

VIOLATIONS OF NFA COMPLIANCE RULES 2-2(f) AND 2-4: WILLFUL SUBMISSION OF MISLEADING INFORMATION TO NFA; AND FAILURE TO OBSERVE HIGH STANDARDS OF COMMERCIAL HONOR AND JUST AND EQUITABLE PRINCIPLES OF TRADE BY KNOWINGLY LISTING EPSTEIN AS A PRINCIPAL – WITHOUT HIS QUALIFYING AS A PRINCIPAL OR HIS AUTHORIZATION – AND SPONSORING HIM AS A NOMINAL ASSOCIATED PERSON OF THE FIRM IN ORDER TO OBTAIN NFA MEMBERSHIP AND CFTC REGISTRATION.

43. The allegations contained in paragraphs 1 through 42 are realleged as paragraph 43.
44. As alleged above, Dafex, through its agents and employees, engaged in a deceitful course of conduct in order to obtain NFA membership and CFTC registration, which contradicts the high standards of commercial honor and just and equitable principles of trade expected of NFA Members.
45. Dafex falsely listed Epstein as a principal of the firm in May, even though he did not qualify or agree to be listed as a principal of the firm. In August, an individual acting on Dafex's behalf again attempted to list Epstein as a principal, without his consent, to prevent the firm's membership withdrawal from becoming effective.
46. Dafex also knowingly sponsored Epstein as an AP of the firm, even though the firm knew that Epstein would not be soliciting orders or customers, or engaging in any other activities that would require his registration as an AP of the firm, thereby making him an AP in name only (i.e., a nominal AP).
47. As alleged above, NFA's evidence indicates Dafex became a CPO Member not because the firm's operations required it to do so, but rather to give the impression that Dafex is a U.S. regulated entity. Firm representatives also

admitted that Dafex has no clients and that its business plans have been delayed by the coronavirus.

48. As further alleged, individuals acting on Dafex's behalf attempted to mislead NFA by, among other things, filing the certification with NFA that incorrectly represented Dafex had completed the required background check on Epstein; falsely claiming to NFA that Epstein had agreed to have Wu verify his application to become an AP; and wrongly listing in ORS that Dafex's main office is located in Colorado.
49. By reason of the foregoing acts and omissions, Dafex is charged with violations of NFA Compliance Rules 2-2(f) and 2-4.

COUNT II

VIOLATION OF NFA COMPLIANCE RULE 2-4: KNOWINGLY AGREEING TO BE A NOMINAL ASSOCIATED PERSON OF THE FIRM.

50. The allegations contained in paragraphs 2, 4, 8 through 11, 16 through 35, and 42 are realleged as paragraph 50.
51. As alleged above, Epstein agreed to be an AP of Dafex for one month, with the understanding he would be hired on a temporary basis and would not have any compliance liability. Epstein also knew full well that he would not be soliciting any orders or customers, or engaging in any activities that required him to be registered as an AP and, accordingly, would be a nominal AP of the firm.
52. Further, although Epstein did not consent to be a principal of Dafex, his agreement to be a nominal AP enabled the firm to falsely list him as a principal and improperly obtain NFA membership and CFTC registration.

53. By agreeing to be an AP of Dafex in name only, Epstein's conduct fell short of the high standards of commercial honor and just and equitable principles of trade expected of NFA Associates.
54. By reason of the foregoing acts and omissions, Epstein is charged with violations of Compliance Rule 2-4.

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