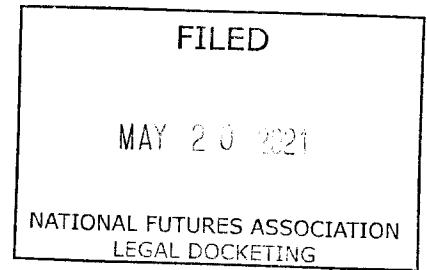


**NATIONAL FUTURES ASSOCIATION
BEFORE THE
BUSINESS CONDUCT COMMITTEE**



In the Matter of:)
)
ROY E. ABBOTT FUTURES, INC.) NFA Case No. 21-BCC-005
(NFA ID #287150),)
)
Respondent.)

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 Roy E. Abbott Futures, Inc. (Abbott Futures).

ALLEGATIONS

JURISDICTION

1. At all times relevant to the Complaint, Abbott Futures was an introducing broker Member of NFA. As such, Abbott Futures was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Abbott Futures is also liable for violations of NFA Requirements committed by its agents and employees during the course of their activities on behalf of Abbott Futures.

BACKGROUND

2. Abbott Futures is located in Plymouth, Minnesota. The firm has been registered with the Commodity Futures Trading Commission (CFTC) as an IB and approved as an NFA Member since 1988.

3. To satisfy its minimum financial and reporting requirements, Abbott Futures operates pursuant to a guarantee agreement with a futures commission merchant (guarantor FCM).
4. From December 14, 2010 until August 1, 2019, Abbott Futures employed an individual who was registered with the CFTC as an associated person (AP) of the firm and approved as an NFA Associate (hereafter referred to as "the employee").
5. On August 15, 2019, the guarantor FCM of Abbott Futures filed a Form 8T with NFA to withdraw the employee as an AP of Abbott Futures.
6. The Form 8T disclosed that the employee had been discharged on August 1, 2019 from Abbott Futures for "giving preferential treatment to certain customers."
7. Based on this disclosure, NFA commenced an investigation, which found that the employee had been engaging in a deceptive trading scheme from at least June 1, 2014 to July 31, 2019 (the "Relevant Period").
8. To carry out his scheme, the employee placed unauthorized trades in the accounts of selected Abbott Futures' customers and then submitted fictitious trade transfer requests to improperly allocate winning trades to the accounts of favored customers, while allocating losing or unprofitable trades to the accounts of non-favored customers.
9. As alleged in more detail below, NFA's investigation found that Abbott Futures failed to diligently supervise its employee's handling of customer accounts and failed to adopt and implement adequate policies and procedures to monitor for, detect and prevent unauthorized trading and fictitious trade transfer activity,

which failures resulted in unjust gains to certain customers and losses to other customers of the firm.

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 requires Members and Associates to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their commodity futures and swaps business.
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 Associate, in writing (by power of attorney or other instrument) to exercise such discretion.
13. NFA Compliance Rule 2-9(a) provides, in pertinent part, 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.

COUNT I

VIOLATIONS OF NFA COMPLIANCE RULES 2-2(a), 2-4, AND 2-8(a): UTILIZING UNAUTHORIZED TRADING AND FICTITIOUS TRADE TRANSFER REQUESTS TO IMPROPERLY ALLOCATE PROFITABLE TRADES TO FAVORED CUSTOMERS' ACCOUNTS, WHILE ALLOCATING LOSING TRADES TO NON-FAVORED CUSTOMERS' ACCOUNTS; AND EXERCISING DISCRETION OVER CUSTOMERS' ACCOUNTS WITHOUT WRITTEN AUTHORIZATION.

14. The foregoing paragraphs are realleged as if fully stated herein.

15. During the Relevant Period, the employee engaged in a trading scheme wherein he placed unauthorized day trades in the accounts of selected Abbott Futures customers.
16. After placing the unauthorized trades, the employee submitted fictitious transfer requests to designated personnel at Abbott Futures to move the trades intra-day from the originating accounts to the accounts of other Abbott Futures customers.
17. To explain the transfer requests, the employee falsely claimed that he had made a mistake in placing the original order and needed it moved to another account. The employee often waited until the end of the day to provide his fictitious transfer requests to the designated Abbott Futures personnel.
18. After receiving the employee's fictitious transfer requests, the designated personnel at Abbott Futures submitted the requests for processing to the firm's guarantor FCM.
19. The employee used the unauthorized trades and fictitious transfers to improperly allocate winning trades to the accounts of favored customers, while allocating losing or unprofitable trades to the accounts of non-favored customers.
20. During the Relevant Period, the employee caused the transfer of hundreds of trades that impacted 47 customer accounts.
21. Eighteen customer accounts unjustly profited from the employee's deceptive scheme. The unjust profits totaled approximately \$197,000 and ranged in amounts of approximately \$100 to more than \$90,000.

22. Four customer accounts benefitted predominantly from the employee's activities (hereafter referred to as the "Preferred Customers"). The trades transferred to the Preferred Customers resulted in unjust gains of almost \$175,000.
23. Twenty-nine customer accounts incurred losses from the employee's deceptive scheme. The trades transferred to these accounts resulted in net losses that totaled more than \$197,000 and ranged from \$40 to over \$80,000.
24. Based on information obtained through its investigation, NFA found that the employee exercised full discretion over three of the Preferred Customers' accounts, including which markets to trade and the trades to make.
25. Despite the employee exercising discretion over the three Preferred Customers' accounts, neither the employee nor Abbott Futures obtained an executed power-of-attorney or other written instrument granting the employee trading authority over the three Preferred Customers' accounts.
26. By the conduct described above, the employee acted within the scope of his employment with Abbott Futures. Therefore, Abbott Futures is liable for acts and omissions that violate NFA Requirements committed by the employee while acting within the scope of his employment with Abbott Futures.
27. By reason of the foregoing acts and omissions, Abbott Futures is charged with violating NFA Compliance Rules 2-2(a), 2-4, and 2-8(a).

COUNT II

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

28. The foregoing paragraphs are realleged as if fully stated herein.

29. Despite Abbott Futures' obligation to diligently supervise its employees and monitor their handling of customer accounts, the firm failed to adopt and implement adequate supervisory procedures to monitor for, detect and prevent unauthorized trading and improper trade transfer activity by its employees.
30. During the Relevant Period, Abbott Futures had no written trade transfer policy tailored to its operations. As a result, the firm did not require its employees to provide any formal reason or documentation for a transfer request; did not assess whether a trade transfer resulted in a profit or loss to the "receiving" account; and did not require supervisory approval to process a transfer request.
31. Abbott Futures also failed to adopt and implement procedures to identify and investigate in a timely manner unusual activity within or among accounts that may indicate illicit trading practices. As a result, Abbott Futures failed to question or investigate certain "red flags" that should have caused the firm to make a reasonable inquiry into the Preferred Customers' account activity.
32. For example, NFA's investigation found that the Preferred Customers had a high percentage of profitable trades, with "win rates" ranging from over 70% to 100%; maintained minimal month-end balances in their accounts, often less than \$100; had insufficient account equity to cover the initial margin required to place the trades that the employee moved into their accounts; and almost always withdrew the profits received from the transferred trades soon after the positions were offset (e.g., within a day or two).
33. Abbott Futures also failed to adequately scrutinize "red flags" concerning the employee. For example, the employee paid the Preferred Customers trading

volume "rebates" or commission "adjustments" starting in June 2014. Abbott Futures knew the employee gave rebates to his customers more often than any other broker at the firm but did not question the employee about his rebate activity. The rebates effectively ended in early 2017, after the guarantor FCM questioned the frequency of employee's rebates.

34. Abbott Futures also failed to inquire further after the employee provided benign explanations when the firm questioned the commission-to-equity ratios on some of the employee's known discretionary accounts, in response to inquiries from the guarantor FCM during the Relevant Period. In addition, the employee was subject to several wage garnishments while employed at Abbott Futures.
35. As a result of Abbott Futures' deficient supervisory system, the firm failed to monitor for and detect the employee's deceptive trading scheme, which resulted in unjust gains to some Abbott Futures customers, to the detriment of other customers of the firm.
36. By reason of the foregoing acts and omissions, Abbott Futures is charged with violating NFA Compliance Rule 2-9(a).

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.

The place for filings an Answer shall be:

National Futures Association
300 S. Riverside Plaza
Suite 1800
Chicago, Illinois 60606

Attn: Legal Department - Docketing
E-Mail: 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

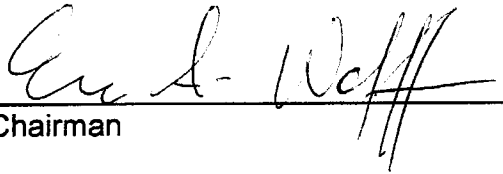
At the conclusion of the proceedings conducted in connection with this Complaint, one or more of the following penalties may be imposed:

- (a) expulsion or suspension for a specified period from NFA membership;
- (b) bar or suspension for a specified period from association with a NFA Member;
- (c) censure or reprimand;
- (d) a monetary fine not to exceed \$500,000 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. A Respondent in this matter who applies 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.

**NATIONAL FUTURES ASSOCIATION
BUSINESS CONDUCT COMMITTEE**

Dated: 5/20/21

By: 
Chairman

m/cxc/Complaints/Roy E Abbott Futures Complaint (final)