

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

**FILED**  
  
SEP - 1 2021  
  
NATIONAL FUTURES ASSOCIATION  
LEGAL DOCKETING

In the Matter of: )  
)  
FREIGHT INVESTOR SERVICES )  
LIMITED )  
(NFA ID# 450653), )  
Respondent. )

NFA Case No. 21-BCC-011

**COMPLAINT**

Having reviewed the investigative report submitted by the Compliance Department of National Futures Association (NFA) and having 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 Freight Investor Services Limited (Freight or the Firm).

**ALLEGATIONS**

**JURISDICTION**

1. At all times relevant to this Complaint, Freight was registered with the Commodity Futures Trading Commission (CFTC) as an introducing broker (IB) and approved as a swap firm and NFA Member. As such, Freight was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.

**BACKGROUND**

2. Freight has been a NFA Member since September 2013.
3. Freight operates as a block futures broker for institutional customers trading metals, forward freight agreements, agricultural products, and swaps.

4. The Firm is headquartered in London, UK, and currently has branch offices in Overland Park, Kansas, and Stamford, Connecticut.
5. At various times from July 2013 through February 2020, Freight also had branch offices in California, Florida, Illinois, Kentucky, and Missouri (collectively, the Closed Branches).
6. John Banaszkiwicz is the chief executive officer (CEO), a principal, and sole owner of the Firm, but not a registered associated person (AP) or NFA Associate.
7. There are approximately 20 APs in the UK office, and five APs in the US branches. While they were operating, the Closed Branches employed five APs.
8. In April of 2020, New York Mercantile Exchange's (NYMEX's) business conduct committee fined Freight \$85,000 for, among other things, failing to supervise the execution of block trades by its brokers and failing to maintain complete written and electronic records of all its brokers' transactions for several periods between September 2018 and July 2019.
9. NFA commenced an examination of Freight in April 2020. The exam found compliance and supervisory deficiencies at the Firm, leading to the Counts below, some of which resemble the failures alleged in NYMEX's disciplinary case.

#### **APPLICABLE RULES**

10. NFA Compliance Rule 2-10(a) requires Members to maintain adequate books and records necessary and appropriate to conduct their business including, without limitation, the records required to be kept under CFTC Regulation 1.35 for the period required under CFTC Regulation 1.31.

11. CFTC Regulation 1.35 requires certain IBs to keep full, complete, and systematic records of all transactions relating to its business of dealing in commodity interests, and to keep all written and oral communications provided or received concerning quotes, solicitations, bids, offers, instructions, trading, and prices that lead to the execution of a transaction in a commodity interest whether transmitted by telephone, voicemail, instant messaging, chat rooms, electronic mail, mobile device or other digital or electronic media.
12. CFTC Regulation 1.31 requires, in pertinent part, IBs that are required to retain oral communications to keep regulatory records of oral communications for a period of not less than one year from the date of the communication.
13. CFTC Regulation 1.31 requires, in pertinent part, IBs to keep regulatory records of written pre-trade communications and written transaction records for a period of not less than five years from the date on which the record was created.
14. NFA Bylaw 301(b) provides, in pertinent part, that no person may be associated with a Member of NFA unless the person is registered with NFA as an NFA Associate or is an NFA Member.
15. NFA Compliance Rule 2-9(a) requires each NFA Member to diligently supervise its employees and agents in the conduct of their commodity interest activities for or on behalf of the Member.

**COUNT I**

**VIOLATION OF NFA COMPLIANCE RULE 2-10(a): FAILURE TO KEEP FULL, COMPLETE, AND SYSTEMATIC RECORDS OF ALL TRANSACTIONS RELATING TO ITS BUSINESS OF DEALING IN COMMODITY INTERESTS.**

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

17. During its April 2020 exam of Freight, NFA found that since 2014, Freight failed to record its branch office AP's oral communications, and failed to keep its branch office APs' SMS text messages. This failure to maintain records occurred at both its existing and Closed Branches.
18. On February 10, 2020, at least five instances of an AP's chat messages that day were permanently deleted.
19. On February 13, 2020, at least three instances of an AP's chat messages that day were permanently deleted.
20. Freight failed to detect these recordkeeping violations until discovered by NFA's exam team during its exam.
21. By reason of the foregoing acts and omissions, Freight is charged with violation of NFA Compliance Rule 2-10(a).

## **COUNT II**

### **VIOLATION OF NFA BYLAW 301(b): ALLOWING AN UNREGISTERED INDIVIDUAL TO ACT AS AN ASSOCIATED PERSON WITHOUT BEING REGISTERED IN SUCH CAPACITY AND AN NFA ASSOCIATE.**

22. The foregoing paragraphs are realleged as if fully stated herein.
23. As CEO of Freight, Banaszkievicz was responsible for overseeing the Firm, its operations, and its APs. As such, he was at the top of the supervisory chain-of-command at the Firm.
24. During a period in 2018 and 2019, all the Firm's APs reported to him through an individual who was neither an AP, nor a NFA Associate.

25. More recently, at least one AP who reported directly to Banaszekiewicz met twice daily with him and discussed matters such as company performance and staff remuneration.
26. Banaszekiewicz should have been, but was not, registered as an AP of Freight and an NFA Associate.
27. By reason of the foregoing acts and omissions, Freight is charged with violation of NFA Bylaw 301(b).

### **COUNT III**

#### **VIOLATIONS OF NFA COMPLIANCE RULE 2-9(a): FAILURE TO SUPERVISE.**

28. The foregoing paragraphs are realleged as if fully stated herein.
29. Freight failed to fulfill its obligation to diligently supervise its employees in the conduct of their commodity interest activities for or on behalf of the Firm.
30. The retention violations alleged in Count I illustrate deficiencies with Freight's supervision of its APs' recordkeeping activities, which went undetected by Freight for several years.
31. Freight also failed to conduct supervisory reviews of many of the communications it happened to retain. The Firm's written procedures required review of electronic communications that contained flagged keywords; identifying and reviewing approximately 20% of non-flagged communications; and sampling 100 calls each month on all broker phones via a third-party call recording system.
32. However, the third-party system Freight used for monitoring electronic communications only captured one of the four chat applications that Freight's US and UK APs used and did not capture any of the UK APs' SMS texts.

33. In addition, Freight reviewed only about 2% of its non-flagged message from January 2, 2020 to April 30, 2020, not 20% as required by written procedures.
34. The Firm also failed to configure the system utilized to monitor brokers' phones to access the UK APs' mobile and digital phones.
35. Freight also failed to develop and implement an adequate branch office supervisory program by not adopting written policies and procedures for the initial and on-going oversight of its branch offices, including its Closed Branches (when they were operating). The Firm failed to create or retain reports documenting branch oversight visits prior to 2018.
36. Additionally, no one at Freight conducted required on-site branch inspections in 2018 and 2019. The Firm claimed it assessed the branch offices through the annual self-examination questionnaire and conducted remote branch office audits in 2020; however, Freight failed to document and produce the results of the assessment.
37. The failure to register Banaszekiewicz as an AP of Freight and an NFA Associate, as alleged in Count II, illustrates further deficiencies in Freight's supervision of its employees.
38. By reason of the foregoing acts and omissions, Freight is 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 (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 filing an Answer shall be:

National Futures Association  
300 South Riverside Plaza  
Suite 1800  
Chicago, Illinois 60606  
Attn: Legal Department-Docketing

Email: [Docketing@nfa.futures.org](mailto: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**

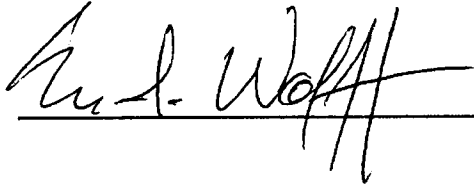
At the conclusion of the proceedings conducted in connection with the issuance of this Complaint, one or more of the following penalties may be imposed:

- (a) expulsion or suspension for a specified period from NFA membership;
- (b) bar or suspension for a specified period from association with an 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. The Respondent in this matter who applies for registration in any new capacity may be denied registration based on the pendency of this proceeding.

**NATIONAL FUTURES ASSOCIATION  
BUSINESS CONDUCT COMMITTEE**

Dated: 9/1/2021

By: 

M/TDK/BCC/FIS/FIS Complaint