

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

FILED

APR 26 2022

NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

In the Matter of:

Amerex Petroleum 2 Singapore PTE LTD
(NFA ID #447389)

and

Andrew Dodge Mawicke
(NF ID #448228),

Respondents.

NFA Case No. 22-BCC-005

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, NFA's Business Conduct Committee issues this Complaint against Amerex Petroleum 2 Singapore PTE LTD (Amerex), and Andrew Dodge Mawicke (Mawicke).

ALLEGATIONS

JURISDICTION

1. At all times relevant to this Complaint, Amerex has been registered with the Commodity Futures Trading Commission (CFTC) as an introducing broker (IB) and approved as a swap firm and NFA Member. As such, Amerex 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, Mawicke has been an associated person (AP) of Amerex and approved as an NFA Associate. As such, Mawicke was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Amerex is liable for violations of NFA Requirements committed by Mawicke in the course of his activities on behalf of the firm.

BACKGROUND

3. Amerex has been a NFA Member since September 2014. It is headquartered in Singapore and has no branch offices.
4. The firm operates as a block futures broker, mainly for non-US institutional customers trading oil futures and physical oil products on various exchanges.
5. Mawicke is the only AP who is a principal of Amerex. Mawicke also oversees the firm's other APs.
6. Based on the amount of its aggregate gross revenues, Amerex has been required since at least September 2017 to keep all oral pre-trade communications for not less than one year from the date of the communication. The firm is also required to keep written pre-trade communications for not less than five years from the date of the communication.
7. In 2019, one of the exchanges where Amerex places trades (Exchange A) reviewed Amerex's compliance with Exchange A's regulations and found, among other things, that the firm failed to maintain correct block trade audit trails and supporting documentation.

8. In an October 2019 letter to Amerex, Exchange A recommended that the firm enhance the accuracy of its block trade audit trail, implement a regular audit trail review, and implement a third-party application to retain brokers' WhatsApp communications.
9. NFA commenced an examination of Amerex in December 2020. The exam found recordkeeping and supervisory deficiencies at the firm, some of which resulted from the firm's inadequate responses to Exchange A's recommendations.

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 large 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 to keep oral pre-trade communications for a period of not less than one year from the date of the

communication, and written pre-trade communications for a period of not less than five years from the date on which the record was created.

13. NFA Compliance Rule 2-9(a) requires NFA Members and Associates to diligently supervise their 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 AMEREX'S BUSINESS OF DEALING IN COMMODITY INTERESTS.

14. The foregoing paragraphs are realleged as if fully stated herein.
15. During its December 2020 exam of Amerex, NFA reconstructed certain block trades and found instances where APs failed to keep pre-trade communications conducted over their personal mobile phones.
16. For example, the firm was unable to produce APs' mobile phone oral communications for a trade on January 6, 2020 and another trade on October 28, 2020. Amerex admitted to NFA that it did not record or retain oral communications over its APs' personal mobile phones.
17. Despite Amerex causing its APs in January 2020 to install an archiving application on their personal mobile phones to record and retain WhatsApp communications, as recommended by Exchange A, the firm was also unable to produce mobile phone communications that an AP conducted through WhatsApp for a trade on November 16, 2020.
18. NFA's exam also found that Amerex APs used another communication method called WeChat, which is a mobile phone text and voice communication

application similar to WhatsApp. However, Amerex failed to retain any oral or written communications conducted through the WeChat application until at least December 2020.

19. By reason of the foregoing acts and omissions, Amerex is charged with violations of NFA Compliance Rule 2-10(a).

COUNT II

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

20. The foregoing paragraphs are realleged as if fully stated herein.
21. Under NFA Compliance Rule 2-9(a), Amerex is required to diligently supervise its employees and agents in the conduct of their commodity interest activities for or on behalf of the firm.
22. Under NFA Compliance Rule 2-9(a), Mawicke is required to diligently exercise his supervisory duties in the conduct of his commodity interest activities on behalf of the firm. Further, as the sole AP/principal of Amerex, Mawicke is obligated to ensure the firm complies with NFA Requirements.
23. As the violations alleged in Count I illustrate, Amerex and Mawicke fell short of fulfilling their supervisory obligations to ensure the firm complied with its recordkeeping obligations regarding oral and written communications.
24. Amerex and Mawicke also failed to take adequate steps to ensure APs retained WhatsApp communications, despite implementing an archiving application in January 2020, and failed to detect the WeChat recordkeeping violations until NFA discovered them during its exam.
25. The failure to respond adequately to Exchange A's 2019 audit trail findings and recommendations resulted in other supervisory shortcomings at Amerex.

26. To illustrate, in early 2020, Amerex implemented "Audit Trail Monitoring" procedures, which required the firm to record and store, among other data, all communications with customers indicating an intention to buy or sell. The procedures further called for the firm to conduct monthly reviews of five randomly selected trades to ensure the firm complied with its recordkeeping obligations.
27. However, the Audit Trail Monitoring procedures failed to specify how the monthly reviews would be documented, including the disposition of the reviews, any issues noted, and the remedial actions taken to address those issues.
28. NFA tested the firm's monthly trade reviews for September 2020 and October 2020. However, NFA could not reconstruct one of the trades from September and two of the trades from October because the records the firm reviewed did not contain all the APs' corresponding communications with customers, even though the Audit Trail Monitoring procedures required the firm to record and store those communications.
29. Furthermore, even though one purpose of the monthly reviews was to check that all relevant documents (e.g., communication records) were maintained, Amerex conducted no follow up on these missing records.
30. The recordkeeping violations alleged in Count I and the firm's failure to adopt and implement adequate Audit Trail Monitoring procedures demonstrate that Amerex and Mawicke failed to diligently supervise the firm's employees in the conduct of their commodity interest activities.
31. By reason of the foregoing acts and omissions, Amerex and Mawicke 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 (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

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. A Respondent in this matter who applies for registration in any new capacity may, after an opportunity for hearing, be denied registration or conditionally registered 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 a Respondent who is an individual 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:

4/26/2022

By:

Eric L. Wolff
Chairperson