

**NATIONAL FUTURES ASSOCIATION
BEFORE THE
HEARING PANEL**

FILED

FEB 16 2023

NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

In the Matter of:)
)
VBI COMPANY)
(NFA ID #312310),)
)
and)
)
PETER MARK VANDEN BERGE)
(NFA ID #245943),)
)
Respondents.)

NFA Case No. 22-BCC-013

DECISION

Having reviewed all matters relevant to the Complaint issued by the Business Conduct Committee (BCC) of National Futures Association (NFA) in the above-captioned case and having considered the Offer of Settlement (Offer) submitted by VBI Company (VBI) and Peter Mark Vanden Berge, and having accepted their Offer, the Hearing Panel (Panel) hereby issues this Decision.

I

ALLEGED VIOLATIONS OF NFA REQUIREMENTS

On September 29, 2022, the BCC issued a Complaint against VBI, an introducing broker (IB) Member of NFA located in Sioux Falls, South Dakota, and Peter Mark Vanden Berge (Vanden Berge), a registered associated person and listed principal of VBI, and an NFA Associate.

The Complaint charged VBI with failing to comply with CFTC Regulations 1.31 and 1.35 by failing to maintain required oral and written pre-trade communications, in violation of NFA Compliance Rule 2-10(a).

The Complaint also charged VBI and Vanden Berge with providing NFA with a number of excuses for the firm's communication recordkeeping deficiencies and, in doing so, provided NFA with materially false or misleading information regarding whether VBI ever complied with its communication recordkeeping obligations for nearly five years. The Complaint also charged VBI and Vanden Berge with failing to diligently supervise VBI's operations, in violation of NFA Compliance Rule 2-9(a).

II

OFFER OF SETTLEMENT

Without admitting or denying the allegations in the Complaint, VBI and Vanden Berge have submitted an Offer in which they propose to settle the charges against them by agreeing to pay a fine of \$135,000 to NFA, for which they shall be jointly and severally liable, payable within 30 days after the effective date of a Decision accepting the Offer. In their Offer, VBI and Vanden Berge acknowledged that any Decision accepting the Offer would include findings that VBI violated NFA Compliance Rule 2-10, and that VBI and Vanden Berge violated NFA Compliance Rules 2-2(f) and 2-9(a).

III

FINDINGS

Pursuant to the Offer, the Panel finds that VBI violated NFA Compliance Rule 2-10, and that VBI and Vanden Berge violated NFA Compliance Rules 2-2(f) and 2-9(a).

IV

PENALTY

Having considered this matter and having accepted the Offer made by VBI and Vanden Berge, the Panel orders VBI and Vanden Berge, jointly and severally, to pay a fine of \$135,000 to NFA within 30 days after the effective date of this Decision.

This Decision and the Offer shall not be used as a sole basis for any other action or proceeding by NFA against VBI or Vanden Berge, including any registration matter, except this Offer and any Decision accepting this Offer may be used in an action to enforce the terms thereof or in a subsequent disciplinary action or regulatory action, where they may be considered as disciplinary history and as evidence in aggravation on the issue of sanctions.

V

INELIGIBILITY

Pursuant to Commodity Futures Trading Commission (CFTC) Regulation 1.63, this Decision and the sanctions imposed herein render Vanden Berge ineligible to serve on a disciplinary committee, arbitration panel, oversight panel or governing board of any self-regulatory organization, as that term is defined in CFTC Regulation 1.63,

until the later of three (3) years after the effective date of this Decision, or until he has satisfied all the sanctions and conditions imposed by this Decision.

**NATIONAL FUTURES ASSOCIATION
HEARING PANEL**

Date: 02/16/2023

By: Glenn J. Matthews
Chairperson