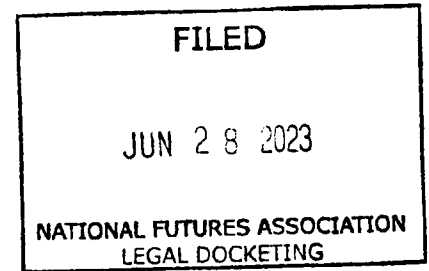


**NATIONAL FUTURES ASSOCIATION  
BEFORE THE  
BUSINESS CONDUCT COMMITTEE**



In the Matter of )  
)  
TYCHE ASSET MANAGEMENT LLC )  
(NFA ID #529301), )  
)  
and ) NFA Case No. 23-BCC-004  
)  
PHILLIP MONCEL GALLES )  
(NFA ID #531002), )  
)  
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, NFA's Business Conduct Committee (Committee) issues this Complaint against Tyche Asset Management LLC (Tyche) and Phillip Moncel Galles (Galles).

**ALLEGATIONS**

**JURISDICTION**

1. At all times relevant to this Complaint, Tyche has been a commodity pool operator (CPO) Member of NFA. As such, Tyche 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, Galles has been an associated person (AP) of Tyche and an NFA Associate. As such, Galles was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Tyche is liable for violations of NFA Requirements committed by Galles during the course of his activities on behalf of Tyche.

### **BACKGROUND**

3. Tyche has been registered with the Commodity Futures Trading Commission (CFTC) as a CPO since March 1, 2021 and approved as an NFA Member since June 7, 2021. The firm lists its main address in NFA's online registration system (ORS) as Chicago, Illinois.
4. Galles has been a principal of Tyche since March 1, 2021 and an AP of the firm and NFA Associate since June 7, 2021. Galles also is the chief executive officer and president of Tyche.
5. Nicholas John O'Meara (O'Meara) has been an AP of Tyche since July 28, 2021 and is the firm's client relationship manager. O'Meara also was a principal of the firm from July 28, 2021 to August 26, 2022, when his principal status was withdrawn. He has been an NFA Associate since July 2, 2021.
6. In addition to operating Tyche, Galles apparently operates and is a director of a company named Tyche Asset Trade (TA Trade). TA Trade, which is also located in Chicago, has no CFTC registration or NFA membership status. TA Trade's website address is the same as the one that Tyche has on record in ORS (*i.e.*, [www.tycheam.com](http://www.tycheam.com)).

7. Tyche has listed five commodity pools (*i.e.*, Tyche Onshore Fund, LP, Tyche Master Fund, Ltd., Tyche Offshore Fund, Ltd., Tyche PML Master Fund, Ltd., and Tyche PML Onshore Fund, LP) in NFA's records.
8. Although Tyche has listed the five pools with NFA, the firm answered "no" in July 2022 to questions in the Annual Questionnaire about whether Tyche had any customers and/or pools that engage in activity relating to commodity interests and whether the firm was soliciting customers to trade commodity interests.
9. In February 2023, Tyche represented to NFA in a pool quarterly report (PQR) that the firm had the five pools but had no assets under management for its pools as of December 31, 2022. The ratios in the financial ratio reporting section of the PQR also reflected that the firm had no assets and no revenue.
10. However, as alleged in more detail below, NFA received information that contradicts Tyche's representations to NFA about the firm's CPO activities and indicates the firm has solicited customers for pooled investments since at least February 2021, prior to becoming a CPO Member.
11. In addition, contrary to the firm's representations to NFA, Tyche accepted at least one customer's funds into a Tyche bank account and subsequently transferred \$25,000 to a Tyche pool account at a futures commission merchant (FCM) Member of NFA.
12. On May 11, the United States Attorney's Office for the District of New Jersey arrested Galles and charged him with wire fraud in connection with an investment scheme that defrauded victims of millions. On the same day, the CFTC filed

charges against Tyche, Galles and others for defrauding investors since approximately October 2019 in a Ponzi-like scheme.

### **APPLICABLE RULES**

13. NFA Compliance Rule 2-2(a) provides that no Member or Associate shall cheat, defraud or deceive, or attempt to cheat, defraud or deceive, any commodity futures customers.
14. NFA Compliance Rule 2-2(f) prohibits a Member or Associate from willfully submitting materially false or misleading information to NFA or its agents.
15. 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.
16. NFA Compliance Rule 2-5 requires, in pertinent part, that each Member and Associate shall cooperate promptly and fully with NFA in any NFA investigation, inquiry, audit or examination.

### **COUNT I**

#### **VIOLATIONS OF NFA COMPLIANCE RULES 2-2(a) AND 2-4: CHEATING, DECEIVING OR ATTEMPTING TO CHEAT AND DECEIVE CUSTOMERS, AND FAILING TO OBSERVE HIGH STANDARDS OF COMMERCIAL HONOR AND JUST AND EQUITABLE PRINCIPLES OF TRADE.**

17. The foregoing paragraphs are realleged as if fully stated herein.
18. On March 31, 2023, NFA received a written complaint from a customer located in Texas (Customer A) and contacted him for more information.
19. Contrary to Tyche's representations to NFA about having no customers, Customer A represented he had invested \$100,000 with Tyche on or around September 1,

2022, after being solicited by O'Meara. Customer A provided bank documents showing an outgoing wire for \$100,000 that named "Tyche Asset Management" as the beneficiary, with an account ending in 0429. Customer A also provided the funding instructions he had received prior to making his investment, which instructions named Tyche as the beneficiary/recipient and directed funds be sent to the firm's account at Bank A (ending in 0429) or an account at a second bank.

20. Customer A indicated to NFA that he had been unable to withdraw his investment over the last few months, despite his repeated requests.

21. Customer A first requested to withdraw \$55,000 on December 12, 2022 and was told \$5,000 would be wired to him as a "test wire" to make sure he received the funds. Although Customer A received the initial \$5,000 "test wire," he said, "it's been one deceit after another since then" in trying to withdraw the remainder of his investment.

22. Examples Customer A provided of Tyche and Galles' deceptive actions include the following:

- Sending him a check in late January 2023 that bounced due to insufficient funds.
- Making various excuses as to why he was not receiving his funds, including that Galles had to move funds to two other banks (hereafter Bank B and Bank C) to "get everyone's money out the door."
- Providing him a photo of a \$35,000 wire receipt from Bank B that Galles claimed to have sent Customer A, but which he never received.
- Sending him fraudulent screenshots to show Tyche's account balances at Bank C during March 2023 (*i.e.*, one that showed a current balance of approximately \$2,000 and a pending balance of more than \$20 million, while another showed a current balance of more than \$17 million).

23. In addition, Customer A shared a Tyche "Earnings Statement" he had received for the fourth quarter of 2022, which consisted of an investor account statement and a letter to investors.
24. The account statement reported Customer A had an ending balance of over \$140,000, a return of almost 30%, and a year-to-date (YTD) return of more than 40% on his \$100,000 investment.
25. The investor letter included a "proprietary" performance table that specified a net rate of return (ROR) exceeding 25% for the fourth quarter of 2022 and an almost 140% YTD return for 2022.
26. Customer A told NFA that his mother-in-law and a family friend, who are both located in Texas, likewise invested with Galles. He indicated they also are unable to withdraw their funds based on similar experiences (*e.g.*, bounced checks).
27. On April 4 and 5, a second customer (Customer B) complained to NFA that she had invested \$242,000 with Tyche and, despite requesting a full withdrawal, had only received \$30,000.
28. Customer B provided NFA with an investment agreement she entered into with Tyche on February 25, 2021, and said she made an initial investment of \$25,000. She also provided an account statement from Tyche for the quarter ending December 31, 2022 that reported an ending balance of more than \$1 million and an annual ROR for 2022 of over 150%.
29. Customer B represented to NFA that she had asked for a full redemption of her investment in October 2022. However, she had not yet received a \$100,000 wire

that Galles supposedly sent her, and a check he sent to her in January 2023 bounced. Customer B also stated that she knew of another individual awaiting redemption of the \$450,000 that the individual had invested with Tyche.

30. As described above, two customers have stated to NFA that they invested approximately \$340,000 with Tyche and Galles purportedly for trading in a commodity pool or other investment vehicle operated by Tyche and/or Galles. Tyche and Galles provided these customers with statements that valued their investments, combined, at more than \$1 million as of December 31, 2022.
31. Despite repeated requests over several months, Tyche and Galles have not returned these customers' investments—other than \$60,000, combined.
32. Instead, Tyche and Galles gave the customers checks that bounced, sent them information about wire transfers they never received, and offered various excuses for not returning their funds.
33. By reason of the foregoing acts and omissions, Tyche and Galles are charged with violating NFA Compliance Rules 2-2(a) and 2-4.

## COUNT II

### **VIOLATIONS OF NFA COMPLIANCE RULES 2-2(f) AND 2-5: WILLFULLY SUBMITTING MATERIALLY FALSE OR MISLEADING INFORMATION TO NFA OR ITS AGENTS AND FAILING TO COOPERATE PROMPTLY AND FULLY WITH NFA.**

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

#### Information from Tyche and Galles

35. On April 3, 2023—the next business day after receiving Customer A's complaint—NFA commenced an exam and investigation of Tyche.

36. NFA's exam team went to Tyche's office to interview Galles. However, since no one was at Tyche's office, NFA's exam team telephoned Galles.
37. Galles informed NFA that Tyche officially started in 2021 and had employees in Chicago, Philadelphia, and London, with everyone mainly working remotely. Galles also represented that Tyche had no customers, which contradicted the information from Customer A's and B's complaints.
38. During the call, Galles said he solely owned Tyche and mentioned other employees who are not APs or principals of the firm or NFA Associates (e.g., a chief technology officer, a compliance employee).
39. Galles indicated the firm also employed O'Meara as client relationship manager. However, since Galles had represented previously that Tyche had no customers, NFA questioned why Tyche had a customer relationship employee.
40. Galles explained that about 15 customers had invested \$4 million since 2021 for "proprietary trading" purposes. Galles said the "proprietary trading" consisted of about \$7 million in assets under management, of which \$3 million represented trading gains.
41. Galles stated these customers invested with "Tyche Prop," which he also solely owned. He represented the customers would move to Tyche when the firm's Chicago office was set up completely.
42. Galles also told NFA there were accounts at three brokerage firms (referred to hereafter as FCM 1, FCM 2 and FCM 3) and bank accounts at Bank A and Bank C, as discussed above. Galles did not mention Bank B to NFA.



43. Galles acknowledged that he owed some people money. He said he had switched banks over a month ago because of "some issues" with the bank wanting to make sure it was not "crypto money" and that there were no "AML issues."
44. During the call, Galles also told NFA he had pneumonia, which is consistent with what he had told Customer A and Customer B in communications they provided to NFA.
45. At the end of the April 3rd call, NFA directed Galles to provide bank statements beginning when Tyche became an NFA Member in June 2021 for Tyche, "Tyche Prop" and all five pools. NFA confirmed these requests in an email sent to Galles after the call ended and requested the production by 5:00 PM that day, in light of the serious allegations made against Tyche and Galles.
46. Tyche and Galles did not respond to NFA's document request by the 5:00 PM deadline, so NFA sent a follow-up email after the deadline for an update on the production.
47. NFA also spoke to Galles the next day. Galles claimed he did not receive NFA's April 3, 2023 emails but said he could get everything to NFA by Noon on April 5, 2023.
48. NFA sent another email to Galles on April 4, 2023, supplementing NFA's pending request for the bank statements. To expedite the production, NFA's April 4, 2023 email instructed Galles to first provide the bank account numbers and statements for the month of March 2023 for Tyche, "Tyche Prop" and the five pools by 3:00 PM that afternoon.

49. Over the next few days, NFA called and sent emails to Galles to follow up on the expedited request and remind Galles of the obligation under NFA Compliance Rule 2-5 for each Member and Associate to cooperate promptly and fully with NFA or face possible disciplinary action.
50. During this time, Galles sent NFA an email stating he would comply with NFA's requests but claimed he had been admitted to the hospital for pneumonia and did not see NFA's request on his phone due to poor internet service.
51. As a result, NFA slightly extended the production deadline for the bank account information to 5:00 PM on April 7 and asked Galles for documents confirming his hospitalization. To date, Galles has not provided NFA with documentation to substantiate his hospitalization.
52. On April 7, Galles provided March 2023 monthly bank statements for accounts in the name of Tyche and three of the pools. The Tyche bank statements involve four different accounts at Bank A, all of which reported negative balances ranging from approximately -\$10 to more than -\$4,800. Galles did not provide any Tyche bank account statements for Bank B or Bank C, or any statements for "Tyche Prop."
53. The pool bank statements involved accounts at Bank A in the name of Tyche Onshore Fund, LP, Tyche Master Fund, Ltd., and Tyche Offshore Fund, Ltd. The statements for Tyche Onshore Fund and Tyche Master Fund showed negative account balances of approximately -\$1,600 and -\$3,800, respectively, while the statement for Tyche Offshore Fund showed a positive balance of about \$86.

54. Despite NFA's requests to provide bank records for the period beginning in June 2021, Galles did not provide any other bank records. Therefore, NFA sent emails to Galles reiterating the request for the outstanding bank statements, setting an April 11, 2023 deadline for the response, and again reminding Galles of the obligation under Compliance Rule 2-5 for him and Tyche to cooperate promptly and fully with NFA.
55. On April 11, NFA received additional bank statements for Tyche and the three pools discussed above (*i.e.*, Tyche Onshore Fund, Tyche Master Fund and Tyche Offshore Fund), all of which involved accounts at Bank A and covered most of 2022 through February 2023.
56. However, Galles failed to provide statements for several months for some of the accounts, including any statements for the Bank A account ending in 0429, the account to which Customer A wired his \$100,000 deposit in September 2022. NFA's review of the available bank statements also noted a number of deposits from or withdrawals to the Bank A account ending in 0429.
57. Given this incomplete production, NFA sent another email to Galles requiring Tyche and him to provide the remaining outstanding records by 5:00 PM on April 11, 2023. To date, Galles has not replied to these outstanding requests.

Information from FCMs

58. As alleged above, Galles represented to NFA that trading accounts were held with FCM 1, FCM 2 and FCM 3. Therefore, NFA contacted those firms for information about any accounts in the name of, or controlled by, Tyche and

Galles, as well as for the pools that Tyche listed with NFA and the individuals associated with Tyche, as identified above on page 8.

59. The three FCMs responded to NFA's inquiries. FCM 1 reported the firm had one account in the name of Tyche Master Fund and provided documents to show Galles had opened the account to "pre-launch with zero members" and funded it on September 14, 2022—approximately one week after receiving Customer A's \$100,000 investment—with a deposit of \$25,000 from a Tyche Master Fund account at Bank A.
60. FCM 1 account statements showed minimal trading in E-mini S&P contracts during January and February 2023, along with three withdrawals in February totaling around \$20,000. NFA noticed corresponding deposits for the same amounts in Tyche Master Fund's February 2023 account at Bank A, followed immediately by withdrawals to Galles (\$8,500), O'Meara (\$5,000) and Tyche (\$4,999). According to FCM 1, Tyche Master Fund's account has had no activity after February 2023 and its balance currently totals approximately \$6,000.
61. FCM 2 informed NFA that Tyche opened an account in August 2021 in the name of Tyche Master Fund but indicated the account has never been funded.
62. FCM 3 did not identify any accounts associated with any of the entities or individuals identified in NFA's request, which refutes Galles' statement to NFA about having accounts at FCM 3.
63. NFA also requested information from its remaining FCM, Swap Dealer and Forex Dealer Members regarding accounts in the name of or controlled by Tyche, any

of the pools listed with NFA, or any of the individuals associated with Tyche, including Galles and O'Meara.

64. To date, one FCM reported having accounts associated with Galles, O'Meara and the firm's technology officer, while another FCM reported having an account for O'Meara. The combined balance in the identified accounts currently totals approximately \$2,000.
65. Despite Tyche and Galles failing to provide NFA with requested bank statements, NFA obtained information that indicated Tyche accepted more than \$5.5 million from over 50 investors through March 2023, confirmed the firm was acting as a CPO before it became registered and an NFA Member, and showed Tyche had about \$45,000 in its bank account (ending in 0429) as of March 31, 2023.
66. Based on the foregoing, Tyche lied to NFA in regulatory filings, and Galles lied during NFA's interview of him, about the firm's activities as a CPO. In addition, Tyche and Galles failed to cooperate promptly and fully with NFA.
67. By reason of the foregoing acts and omissions, Tyche and Galles are charged with violating NFA Compliance Rules 2-2(f) and 2-5.

### **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  
320 South Canal  
Suite 2400  
Chicago, Illinois 60606  
Attn: Legal Department-Docketing

E-Mail: [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, including as

an AP with a new sponsor, may, after opportunity for hearing, be denied registration based on the pendency of this proceeding.

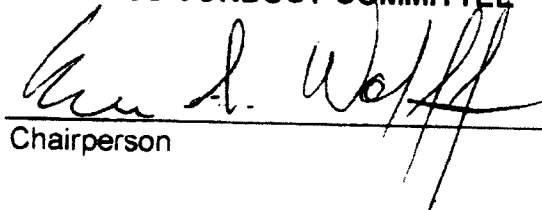
Pursuant to CFTC Regulation 1.63, penalties imposed in connection with this Complaint may temporarily or permanently render a Respondent who is an individual ineligible to serve on disciplinary committees, arbitration panels, and governing boards of a self-regulatory organization, as that term is defined in CFTC Regulation 1.63.

Dated:

6/27/2023

**NATIONAL FUTURES ASSOCIATION  
BUSINESS CONDUCT COMMITTEE**

By:

  
Chairperson

m/cxc/Complaints/Tyche et al Complaint (Final)