

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

FILED
SEP 14 2023
NATIONAL FUTURES ASSOCIATION LEGAL DOCKETING

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.)	

DECISION

Having reviewed all matters related to the Complaint issued by the Business Conduct Committee (Committee) of National Futures Association (NFA) against Tyche Asset Management LLC (Tyche) and Phillip Moncel Galles (Galles), and having found that Tyche and Galles were duly served with the Complaint and that they did not file an Answer to the Complaint, the Committee hereby issues the following Decision as to Tyche and Galles.

I

ALLEGED VIOLATIONS OF NFA REQUIREMENTS

On June 28, 2023, the Committee issued a Complaint against Tyche, a former NFA Member commodity pool operator (CPO) located in Chicago, Illinois. The Complaint also named Galles, a former associated person and principal of Tyche, and a former NFA Associate.

The Complaint alleged that Tyche and Galles engaged in a deceitful course of conduct to defraud customers and failed to uphold high standards of commercial honor and just and equitable principles of trade in connection with a commodity pool or other

investment vehicle operated by Tyche and/or Galles. Among other things, the Complaint alleged that Tyche and Galles provided at least two customers with statements that valued their investments at more than \$1 million as of December 31, 2022 but, despite repeated requests over several months, Tyche and Galles failed to return these customers' investments—other than \$60,000, combined—and, instead, gave the customers checks that bounced, sent them information about wire transfers they never received, and offered various excuses for not returning their funds, in apparent violation of NFA Compliance Rules 2-2(a) and 2-4.

Further, the Complaint alleged that Tyche and Galles provided misleading information to NFA about the firm's activities as a CPO, in apparent violation of NFA Compliance Rule 2-2(f). The Complaint also alleged that Tyche and Galles failed to cooperate promptly with NFA during an exam by failing to provide bank records and other information NFA requested (*e.g.*, investor list), in apparent violation of Compliance Rule 2-5.

II

FAILURE TO RESPOND

NFA served the Complaint on Tyche and Galles by regular, electronic, and overnight mail to Tyche's main office location and Galles' residential address as listed in NFA's online registration system (ORS). On August 1, 2023, NFA sent another copy of the Complaint and a letter by regular, electronic, and overnight mail to Tyche's main office location and Galles' residential address. The letter advised Tyche and Galles that a timely Answer had not been filed with NFA, that a failure to file an Answer would be deemed an admission by Tyche and Galles of all the allegations in the Complaint, and

that if Tyche and Galles intended to file an Answer, they should do so by no later than August 8, 2023 or the BCC may issue a default Decision against them.

On August 8, NFA received an e-mail from Galles that acknowledged receipt of NFA's August 1, 2023 e-mail and attachments, described above. In his e-mail, Galles said he would respond "now that I have seen this" and indicated he needed "a few days to have something drawn up." However, NFA did not hear from Galles after that. Therefore, on August 25, NFA sent Galles another e-mail reminding Tyche and him to file an Answer to the Complaint by September 1, 2023 and indicating that, if they failed to file an Answer by the September 1 deadline, NFA would recommend to the BCC that it issue a default Decision against Tyche and Galles and ask the BCC to impose fitting sanctions based on the Complaint's allegations. To date, neither Tyche nor Galles have filed an Answer to the Complaint or otherwise responded to any allegation in the Complaint.

Under Compliance Rule 3-6(c), a respondent's failure to file a timely Answer to a Complaint is deemed to be an admission of the facts and legal conclusions contained in the Complaint and a waiver of the respondent's right to a hearing. Compliance Rule 3-6(c) further provides that if a timely Answer is not filed, this Committee may issue a default decision.

III

FINDINGS AND CONCLUSIONS

The Committee finds that NFA duly served Tyche and Galles with the Complaint. The Committee further finds that Tyche and Galles failed to file an Answer to the Complaint. Pursuant to NFA Compliance Rule 3-6(c), Tyche and Galles are, therefore, deemed to have admitted the facts and legal conclusions alleged in the Complaint and to have waived their right to a hearing. As a result, the Committee finds

that Tyche and Galles committed each and every violation alleged against them in the Complaint.

Specifically, the Committee finds that Tyche and Galles engaged in a deceitful course of conduct to defraud customers and failed to uphold high standards of commercial honor and just and equitable principles of trade in connection with a commodity pool or other investment vehicle operated by Tyche and/or Galles by, among other things, providing at least two customers with fictitious statements regarding the value of their investments and then, when the customers sought to redeem their investments, employing delay tactics (*e.g.*, giving them checks that bounced) and offering various excuses for not returning their funds, in apparent violation of NFA Compliance Rules 2-2(a) and 2-4.

Further, the Committee finds that Tyche and Galles provided misleading information to NFA about the firm's activities as a CPO, in apparent violation of NFA Compliance Rule 2-2(f), and failed to cooperate promptly with NFA during an exam by failing to provide bank records and other information NFA requested (*e.g.*, investor list), in apparent violation of Compliance Rule 2-5.

IV

PENALTY

The violations committed by Tyche and Galles are of an extremely serious nature and involve deceitful conduct towards customers and contravened the high standards required of NFA Members and Associates. Tyche and Galles also provided misleading information to NFA and failed to cooperate with NFA, which violations strike at the very heart of NFA's examination function. Such serious violations warrant equally

serious sanctions to deter such conduct. Therefore, the Committee permanently bars Tyche from NFA membership and from being listed as or acting as principal of an NFA Member, and permanently bars Galles from NFA membership and associate membership and from being a principal of an NFA Member. Such sanctions shall become effective on the effective date of this Decision.

V

APPEAL

Tyche and Galles may appeal this Decision to NFA's Appeals Committee by filing a written notice of appeal with NFA's Secretary within fifteen days after the date of this Decision. Pursuant to NFA Compliance Rule 3-6(c), the notice must describe those aspects of the disciplinary action to which exception is taken and must contain any request to present written or oral argument. This Decision shall be final after the expiration of the time for appeal or review unless it is appealed or reviewed.

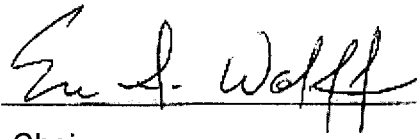
VI

INELIGIBILITY

Pursuant to the provisions of Commodity Futures Trading Commission ("CFTC") Regulation 1.63, this Decision and the sanctions imposed herein render Galles permanently 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.

**NATIONAL FUTURES ASSOCIATION
BUSINESS CONDUCT COMMITTEE**

Date: 9/14/2023

By: 
Chairperson

m/cxc/Decisions/Tyche and Galles Default Decision