

**NATIONAL FUTURES ASSOCIATION
BEFORE THE HEARING PANEL**

FILED
JUL 26 2024
NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

In the Matter of)
)
BIT5IVE MINING FUND ADVISOR LLC,)
ET AL.)
(Richard Alexander Acosta,) NFA Case No. 23-BCC-009
NFA ID #481065))
)
Respondent.)

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 and accepted the Offer of Settlement (Offer) submitted by Richard Alexander Acosta (Acosta), this Hearing Panel (Panel) hereby issues this Decision as to Acosta.

I

ALLEGED VIOLATIONS OF NFA REQUIREMENTS

On November 16, 2023, the BCC issued a Complaint against Acosta, a former NFA Associate and previous associated person (AP), principal, and co-owner of Bit5ive Mining Fund Advisor, LLC (Bit5ive Advisor), a former NFA Member commodity pool operator located in Doral, Florida.

The Complaint charged Acosta with willfully submitting materially false or misleading information to NFA, in violation of NFA Compliance Rule 2-2(f). The Complaint also charged Acosta with failing to cooperate promptly and fully with NFA, in violation of NFA Compliance Rule 2-5.

II

OFFER OF SETTLEMENT

Without admitting or denying the allegations made against him in the Complaint, Acosta submitted an Offer proposing to settle the charges against him on the terms and conditions set forth below.

- A. Acosta agreed to comply with the undertakings outlined in a side letter executed in connection with the Offer, which undertakings relate to a commodity pool Bit5ive Advisor operated;
- B. Acosta agreed to not apply for NFA membership or reapply for NFA associate membership for a period of five (5) years from the date of a Decision accepting the Offer and agreed not to become or act as principal of an NFA Member for a period of seven (7) years from the date of any Decision accepting the Offer; and
- C. Acosta further agreed that if, after the expiration of the periods referenced above, he applies for NFA membership, NFA associate membership, or principal status, he shall pay a fine of \$10,000 to NFA, which fine is due and payable in full on or before the date of any application for NFA membership, NFA associate membership, or principal status with an NFA Member.

In making the Offer, Acosta acknowledged that any Decision issued by the Panel accepting the Offer would include findings that he committed the alleged violations set forth in the Complaint. Acosta also acknowledged in the Offer that NFA would not consider or approve any future application for NFA membership, NFA associate membership, or principal status until such fine has been paid in full.

III

FINDINGS

Pursuant to the Offer, the Panel finds that Acosta willfully provided false and misleading information to NFA, in violation of NFA Compliance Rule 2-2(f), and failed to cooperate promptly and fully with NFA, in violation of NFA Compliance Rule 2-5.

IV

PENALTY

Having considered the matter and having accepted the Offer submitted by Acosta, the Panel hereby orders as follows:

- A. Acosta shall comply with the undertakings set forth in the side letter executed in connection with the Offer related to a commodity pool Bit5ive Advisor operated, which undertakings were satisfied on June 13, 2024;
- B. Acosta shall not apply for NFA membership or reapply for NFA associate membership for a period of five (5) years from the date of this Decision, and shall not become or act as principal of an NFA Member for a period of seven (7) years from the date of this Decision; and
- C. If, after the expiration of the periods referenced above, Acosta applies for NFA membership, NFA associate membership, or principal status, he shall pay a fine of \$10,000 to NFA, which fine is due and payable in full on or before the date of any application for NFA membership, NFA associate membership, or principal status with an NFA Member. No action shall be taken to consider or approve any future application for NFA membership, NFA associate membership or principal status until such fine has been paid in full.

This Decision and the Offer shall not be used as the sole basis for any other action or proceeding by NFA against Acosta, including any registration matter, except that this Decision and the 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 Acosta 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 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: July 26, 2024

By: Rosemary Hollinger
Chairperson