

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

FILED
DEC 19 2024
NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

In the Matter of:)
)
DORSET FUND MANAGEMENT LLC)
(NFA ID #525137),)
)
and)
)
MICHAEL DUBIN)
(NFA ID #208929),)
)
Respondents.)

NFA Case No. 24-BCC-015

COMPLAINT

Having reviewed the investigative report submitted by the Compliance Department of National Futures Association (NFA) and having 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 issues this Complaint against Dorset Fund Management LLC (Dorset) and Michael Dubin (Dubin).

ALLEGATIONS

JURISDICTION

1. At all times relevant to this Complaint, Dorset was a commodity pool operator (CPO) and NFA Member. As such, Dorset 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, Dubin was a principal and associated person (AP) of Dorset and an NFA Associate. As such, Dubin was and is required to comply with NFA Requirements and is subject to disciplinary

proceedings for violations thereof. Dorset is liable for violations of NFA Requirements committed by Dubin during the course of his activities on behalf of Dorset.

BACKGROUND

3. Dorset has been a registered CPO and NFA Member since January 2020. The firm is located in New York, New York.
4. Dubin is one of two managing members of the firm and has been a principal and AP of the firm and an NFA Associate since January 2020.
5. Julian Rundle (Rundle) is the other managing member of Dorset and its chief investment officer. Rundle became a principal of the firm in March 2024 but is not an AP of the firm or an NFA Associate.
6. In July 2020, Dorset listed with NFA a commodity pool called Dorset Natural Resources & Commodity Investment Fund LP (the Onshore Fund) and claimed an exemption for the pool under CFTC Regulation 4.7, which provides relief from certain reporting and disclosure requirements based on the pool's participants being qualified eligible persons (QEPs).
7. The Onshore Fund commenced futures trading on U.S. exchanges in October 2021. As of June 2024, the Onshore Fund had a net asset value (NAV) of approximately \$65 million and more than 40 participants.
8. NFA commenced an examination of Dorset in August 2023.
9. As alleged in more detail below, NFA's exam found serious deficiencies at Dorset, including recordkeeping, reporting and registration violations. The firm also failed to cooperate fully and promptly with NFA and, along with Dubin, failed to adequately supervise its employees and agents.

APPLICABLE RULES

10. NFA Registration Rule 208 provides, in pertinent part, that a CPO must report to NFA each individual who becomes a principal of the CPO within twenty days of the individual becoming a principal.
11. NFA Bylaw 301(b) provides, in pertinent part, that no person may be associated with a Member of NFA unless the person is registered with NFA as an Associate or is an NFA Member.
12. NFA Compliance Rule 2-5 requires, in pertinent part, each Member to cooperate promptly and fully with NFA in any investigation, inquiry, audit, examination or proceeding regarding compliance with NFA requirements or any NFA disciplinary or arbitration proceeding.
13. NFA Compliance Rule 2-13(a) provides, in pertinent part, that any CPO Member who violates any of CFTC Regulations 4.1, 4.7, 4.12 and 4.16 through 4.41 shall be deemed to have violated an NFA requirement.
14. CFTC Regulation 4.7(b) provides, in pertinent part, that CPOs of 4.7 exempt pools must sell participations in the 4.7 exempt pool only to QEPs, maintain records relating to the qualifications of QEP participants, and prepare and distribute to pool participants statements signed and affirmed in accordance with CFTC Regulation 4.22 no less frequently than quarterly within 30 calendar days after the end of the reporting period.
15. CFTC Regulation 4.22 requires a CPO to file an annual pool financial statement (PFS) for any non-exempt pool it operates within 90 days after the end of the pool's fiscal year. For non-exempt pools with net assets of more than \$500,000 at the beginning of the pool's fiscal year, Regulation 4.22 also requires a CPO to

distribute monthly account statements to each pool participant within 30 days after the end of the reporting period. Among other information, the account statements must include the pool's NAV at the end of the reporting period, the change in NAV from the end of the previous reporting period, and a signed oath or affirmation.

16. CFTC Regulation 4.26 requires, in pertinent part, a CPO to file with NFA a Disclosure Document (DDOC) for each pool it operates unless the CPO has claimed an exemption for the pool under Part 4 of the Regulations. Under Regulation 4.26, the CPO must electronically file the DDOC with NFA not less than 21 calendar days prior to the date the CPO first intends to deliver such DDOC to a prospective participant in the pool.
17. NFA Compliance Rule 2-29(b) provides, in pertinent part, that no CPO Member shall use any promotional material that mentions the possibility of profit unless accompanied by an equally prominent discussion of the risk of loss. Compliance Rule 2-29(b) also provides that no CPO Member shall use any promotional material that includes specific numerical or statistical information about past performance of any actual accounts (including rates of return), unless such information is and can be demonstrated to NFA to be representative of actual performance for the same time period of all reasonably comparable accounts and the performance is presented net of commissions, fees and expenses, subject to limited exceptions.
18. NFA Compliance Rule 2-29(d) provides, in pertinent part, that statements of opinion included in a CPO Member's promotional material must be clearly identifiable as such and must have a reasonable basis in fact.

19. NFA Compliance Rule 2-46 provides, in pertinent part, that each CPO Member must file NFA Form PQR (PQR) on a quarterly basis with NFA for each pool that it operates and for which it has any reporting requirement under CFTC Regulation 4.27, within 60 days of each calendar quarter end.
20. NFA Compliance Rule 2-9(a) requires each Member to diligently supervise its employees and agents in the conduct of their commodity interest activities for or on behalf of the Member. The Rule also requires each Associate with supervisory duties to diligently exercise such duties in the conduct of that Associate's commodity interest activities on behalf of the Member.

COUNT I

VIOLATIONS OF NFA COMPLIANCE RULES 2-13(a) AND 2-46: FAILURE TO MAINTAIN REQUIRED RECORDS, DISTRIBUTE COMPLETE ACCOUNT STATEMENTS TO POOL PARTICIPANTS, TIMELY FILE POOL REPORTS WITH NFA, AND SUBMIT A DISCLOSURE DOCUMENT TO NFA FOR REVIEW AND ACCEPTANCE.

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

The Offshore Fund

22. Among other things, CFTC Regulation 4.7 provides CPOs relief from many of the disclosure, reporting and recordkeeping requirements in CFTC Regulations 4.21 through 4.26 with respect to the pools they operate if the CPOs file the required 4.7 exemption notice with NFA for pool offerings to QEPs.
23. In addition to operating the Onshore Fund, NFA discovered during its exam that Dorset operated a second commodity pool, named Dorset Natural Resources & Commodity Investment Fund Ltd. (the Offshore Fund).
24. At the time of NFA's exam, the Offshore Fund had approximately 18 U.S. and non-U.S. participants and a NAV of about \$52 million.

25. Dorset began operating the Offshore Fund in November 2021 and invested the pool's assets in the Onshore Fund.
26. Since Dorset is based in the U.S. and because the Offshore Fund had U.S. participants and traded in U.S. markets since November 2021 through its investment in the Onshore Fund, Dorset was required, but failed, to list the Offshore Fund with NFA before or when the firm began operating the pool.
27. At NFA's directive, Dorset listed the Offshore Fund with NFA in February 2024 as an exempt pool under CFTC Regulation 4.7.
28. However, because Dorset failed to claim an exemption under Regulation 4.7 for the Offshore Fund prior to February 2024, the firm was not eligible for the relief available to CPOs under Regulation 4.7 for the period prior to claiming the exemption.
29. As a result, Dorset failed to comply with various regulatory requirements applicable to the Offshore Fund from November 2021, when the pool began operating, to February 2024, when Dorset claimed the 4.7 exemption for the pool.
30. Specifically, since Dorset began accepting funds from participants in 2021 to purchase an interest in the Offshore Fund before the firm claimed the 4.7 exemption, the firm should have provided the participants with an NFA-accepted DDOC for the Offshore Fund but did not.
31. In addition, the firm failed to file a PFS for the Offshore Fund within 90 days after the pool's fiscal year end for 2021 and 2022.
32. Similarly, Dorset failed to file PQRs for the Offshore Fund from December 2021 through December 2022.

The Onshore Fund

33. NFA's exam also revealed reporting and recordkeeping deficiencies associated with the Onshore Fund.
34. For example, Dorset failed to include the required NAV information and the signed oath or affirmation in the July 2023 account statements that the firm provided to the Onshore Fund participants.
35. In addition, Dorset failed to provide NFA with evidence to support that the firm timely distributed the July 2023 account statements to participants.
36. In its January 2024 exam report, NFA cited the firm for the deficiencies related to the July 2023 account statements.
37. To ensure that Dorset took appropriate corrective action following the exam, NFA reviewed the Onshore Fund's May 2024 accounts statements. Although the firm demonstrated that it timely distributed the May 2024 statements, Dorset again failed to include the required NAV information and the signed oath/affirmation in the statements.
38. Dorset also failed to comply with other requirements that applied to the Onshore Fund, as a 4.7 exempt pool.
39. As described previously, Dorset is required to ensure that each participant in a 4.7 exempt pool meets the definition of a QEP and maintain records relating to each participant's qualification as a QEP.
40. To demonstrate the QEP qualifications of Onshore Fund participants, Dorset required participants to attest to their QEP status in subscription documents they signed prior to investing.

41. However, in one instance, NFA noted joint participants in the Onshore Fund failed to fill out the QEP portion of their subscription document, thus failing to attest to their QEP status.
42. In addition, Dorset filed the Onshore Fund's December 31, 2021 PFS and the Onshore Fund's March 31, 2022 and September 30, 2023 PQRs one day late.
43. By reason of the foregoing acts and omissions, Dorset is charged with violating NFA Compliance Rules 2-13(a) and 2-46.

COUNT II

**VIOLATIONS OF NFA REGISTRATION RULE 208 AND NFA BYLAW 301(b):
FAILING TO TIMELY REPORT AN INDIVIDUAL AS A PRINCIPAL OF THE FIRM
AND PERMITTING AN UNREGISTERED INDIVIDUAL TO ACT AS AN ASSOCIATED
PERSON WITHOUT BEING AN NFA ASSOCIATE.**

44. The foregoing paragraphs are realleged as if fully stated herein.
45. As alleged above, Dubin and Rundle are managing members of Dorset and, between them, control all the operations and activities of the firm.
46. As such, Dorset was required to report both of them as principals of the firm.
47. However, Dorset did not report Rundle as a principal until March 2024, after NFA directed the firm to do so.
48. Also, Rundle solicited prospective pool participants. Accordingly, Rundle was required to be registered as an AP of Dorset and an NFA Associate but was not.
49. In August 2023, NFA informed both Dubin and Rundle that Rundle was required to be a principal and AP of the firm and that he must cease AP activities until he became registered.
50. Despite NFA's directive, Rundle appeared to continue acting as an AP after August 2023 without being registered and an NFA Associate.

51. To illustrate, in September 2023, Dubin responded to NFA's request for bank statements, saying the firm needed more time to respond because Rundle handled those matters and was coming back from a trip for "meeting with clients and prospects."
52. NFA's January 2024 exam report cited Dorset for permitting Rundle to solicit investors for the firm's pools without being an AP. In response, the firm indicated that Rundle understood that he was prohibited from soliciting investors until he became a registered AP.
53. Although Rundle was scheduled to sit for the Series 3 exam on August 12, 2024 and again on September 4, 2024, he failed to appear for the Series 3 exam on either date. Currently, he has not set a new testing date and still is not registered as an AP of the firm or an NFA Associate.
54. By reason of the foregoing acts and omissions, Dorset is charged with violating NFA Registration Rule 208 and NFA Bylaw 301(b).

COUNT III

VIOLATIONS OF NFA COMPLIANCE RULES 2-29(b) AND (d): USING DEFICIENT PROMOTIONAL MATERIALS THAT FAILED TO DEDUCT FEES FROM STATED RATES OF RETURN, MENTIONED THE POSSIBILITY OF PROFIT WITHOUT AN EQUALLY PROMINENT STATEMENT ABOUT RISK OF LOSS, AND INCLUDED UNSUPPORTED STATEMENTS AND OPINIONS.

55. The foregoing paragraphs are realleged as if fully stated herein.
56. In September 2023, Dorset distributed an investor presentation deck to promote the Onshore Fund to potential pool participants. However, NFA's review of the presentation deck (hereafter referred to as promotional material) revealed several deficiencies.

57. For example, the promotional material included rates of return that were not net of fees.
58. The promotional material also mentioned the possibility of profit (*e.g.*, a targeted annual return of 15%-20%) without including an equally prominent discussion of the risk of loss.
59. Additionally, the promotional material included several unsupported references to past performance, such as monthly rates of return prior to when the Onshore Fund commenced trading in October 2021.
60. NFA requested support for the performance data prior to October 2021, which Dorset was unable to provide.
61. The promotional material also included opinions that were not identified as opinions and had no reasonable basis in fact.
62. For example, the promotional material projected that the Onshore Fund would have \$100 million in assets by the first quarter 2024. However, the firm did not clearly identify that the projection was a statement of opinion and could not support that the projection had a reasonable basis in fact.
63. By reason of the foregoing acts and omissions, Dorset is charged with violating NFA Compliance Rules 2-29(b) and (d).

COUNT IV

VIOLATIONS OF NFA COMPLIANCE RULE 2-5: FAILURE TO COOPERATE PROMPTLY AND FULLY WITH NFA.

64. The foregoing paragraphs are realleged as if fully stated herein.
65. During the exam, Dorset failed to cooperate fully and promptly with NFA.

66. To illustrate, NFA provided Dorset with an initial document request list (request list) on August 7, 2023 and instructed the firm to submit the documents to NFA by August 18, 2023.
67. The requested materials involved key financial documents necessary to conduct the exam, including bank records for the firm's operating account, broker and custodial statements, and pool participant subscription documents.
68. Dorset failed to provide many of the key documents by the August 18, 2023 deadline, and some of them remained outstanding for months.
69. The outstanding documents remained on NFA's request list from August 28, 2023 through the final request list NFA sent the firm on December 21, 2023.
70. During that period, NFA contacted the firm numerous times through emails and in conference calls to request the outstanding documents, which included an account statement for the Onshore Fund's investment in an unaffiliated commodity pool and custodial statements for the Onshore Fund's investment in treasury bills.
71. The investor account statement and treasury bill statements were critical to NFA's exam since they represented nearly 75% of the Onshore Fund's NAV.
72. Dorset never provided the investor account statement for the Onshore Fund's investment in the unaffiliated commodity pool. Instead, NFA obtained the statement directly from the third-party commodity pool in which the Onshore Fund invested.
73. Dorset eventually provided the treasury bill statements to NFA on January 24, 2024, in response to NFA's repeated demands.

74. Those repeated demands included the Director of NFA's exam team sending Dorset a January 5, 2024 email that emphasized the firm's obligation to cooperate fully and promptly, reminded the firm of its numerous failures to meet exam deadlines and warned that the firm's continued failure to cooperate with NFA violated NFA Compliance Rule 2-5.
75. When the January 5, 2024 email warning did not prompt Dorset to comply with the outstanding requests, NFA's chief enforcement counsel sent Dubin and Rundle an email that advised them of Dorset's apparent violation of NFA Compliance Rule 2-5 and required the firm to produce the outstanding documents by January 24, 2024.
76. Dorset provided some of the requested documents on January 24, 2024, but did not provide the firm's bank statements until the next day.
77. Upon review, NFA noticed the bank statements were in the name of a non-Member affiliate of Dorset. When NFA questioned Dorset about the bank statements, the firm indicated for the first time that it used the affiliate's bank account as its own operating account.
78. Dorset's failure to cooperate also extended to its corrective action for NFA's exam findings.
79. For example, on the first day of the exam, NFA learned the firm did not have written information systems security program (ISSP) procedures or written third-party service provider (TPSP) procedures, as required under NFA Compliance Rule 2-9(a). NFA informed the firm of these procedural requirements in August 2023 and cited these deficiencies in the January 2024 exam report.

80. In August 2024, NFA sent Dubin and Rundle another email regarding Dorset's corrective action to address the outstanding procedures and other pending matters (*e.g.*, Rundle's AP status).
81. To date, Dorset has not provided adequate ISSP or TPSP procedures or informed NFA that the firm has addressed other open matters from the exam.
82. By reason of the foregoing acts and omissions, Dorset is charged with violating NFA Compliance Rule 2-5.

COUNT V

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

83. The foregoing paragraphs are realleged as if fully stated herein.
84. Under NFA Compliance Rule 2-9(a), Dorset is required to diligently supervise its employees and agents in the conduct of their commodity interest activities for or on behalf of the firm.
85. Under NFA Compliance Rule 2-9(a), Dubin is required to diligently exercise his supervisory duties in the conduct of his commodity interest activities on behalf of the firm.
86. As the foregoing allegations illustrate, Dorset fell short of fulfilling its supervisory obligations to comply with NFA Requirements. The firm's supervisory failures included recordkeeping, reporting, registration and procedural deficiencies, along with its failure to cooperate with NFA during and after the exam.
87. Dorset's inadequate supervision is also illustrated by its failure to adequately supervise a third-party service provider. Specifically, in July 2024, NFA requested all emails to or from Dubin and Rundle from October through

December 2023, so NFA could ascertain whether Rundle had ceased activities requiring him to be registered as an AP and NFA Associate.

88. In response to NFA's request, Dorset indicated the firm had recently changed its email vendor and needed additional time to determine if its previous email vendor could and would collect the emails. This response illustrates the firm's lax oversight over an outsourced function.
89. At all relevant times, Dubin has been the individual responsible for operations and general compliance matters at the firm, which includes areas where several of the foregoing alleged deficiencies existed.
90. However, Dubin neglected to ensure the firm complied with its regulatory obligations and, therefore, failed to adequately carry out his supervisory responsibilities.
91. Dubin illustrated his failure to supervise in other ways. For example, NFA's exam found that Dubin attested to completing NFA's self-exam questionnaire on an annual basis.
92. However, since the questionnaire covers many of the areas where alleged deficiencies existed (*e.g.*, listing all principals of the firm, preparing written ISSP and TPSP procedures), Dubin either failed to pay attention to the questionnaire while completing it or signed the attestation without adequately reviewing the firm's operations.
93. By reason of the foregoing acts and omissions, Dorset and Dubin are charged with violating 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
320 South Canal Street
Suite 2400
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;

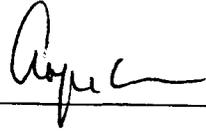
- (d) a monetary fine not to exceed \$500,000 for each violation found; and
- (e) order to cease and desist or any other fitting penalty or remedial action not inconsistent with these penalties.

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, including as an AP with a new sponsor, may, after 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 Respondents who are individuals 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: 12/19/2024

By: 
Chair