

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

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NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

In the Matter of:

NINJATRADER CLEARING LLC
(NFA ID #309379),

and

MICHAEL CAVANAUGH
(NFA ID #536492),

Respondents.

NFA Case No. 24-BCC-012

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 (BCC) issues this Complaint against NinjaTrader Clearing LLC (NinjaTrader) and Michael Cavanaugh (Cavanaugh).

ALLEGATIONS

JURISDICTION

1. At all times relevant to this Complaint, NinjaTrader was a futures commission merchant (FCM) registered with the Commodity Futures Trading Commission (CFTC) and approved as an NFA Member. As such, NinjaTrader 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, Cavanaugh was listed as a principal and registered as an associated person (AP) of NinjaTrader, and approved as an NFA Associate. As such, Cavanaugh was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. NinjaTrader is liable for violations of NFA Requirements committed by Cavanaugh during the course of his activities on behalf of NinjaTrader.

BACKGROUND

3. NinjaTrader has been an NFA Member since April 2001 and a futures commission merchant (FCM) since May 2002. The firm is located in Chicago, Illinois.
4. NinjaTrader was previously known as York Business Associates LLC (York) and began operating under its current name in December 2020, after NinjaTrader Group LLC (Ninja Group) acquired York.
5. Cavanaugh has been an NFA Associate since June 2021. Cavanaugh also is the president of NinjaTrader and currently is the sole AP of the firm.
6. At the time of NFA's 2024 examination, NinjaTrader had over \$22 million in excess net capital and approximately 85,000 accounts, most of which were individual accounts that could be characterized as retail.
7. Between August 2021 and May 2022, NinjaTrader added over \$192 million in customer funds, mainly from accounts the firm acquired through acquisitions and bulk transfer from other firms.

Prior Disciplinary History

8. Prior to Ninja Group's acquisition, the CFTC and NFA had each charged York in a disciplinary action.
9. In 2012, the CFTC sanctioned York (doing business as TransAct Futures) for failing to diligently supervise its employees' handling of an account at the firm, where the account holder engaged in a commodity pool fraud scheme from February 2006 through May 2009 involving over 100 participants and more than \$140 million.
10. The CFTC found that York failed to follow-up sufficiently on "red flags" concerning suspicious activity or to adequately investigate inconsistent and contradictory information the firm received from the account holder.
11. In its order filing and settling the matter, the CFTC ordered York to strengthen its compliance procedures designed to detect and prevent similar violations in the future. The CFTC also ordered the firm to pay a \$130,000 civil monetary penalty and disgorge \$69,000.
12. In 2020, the BCC brought a disciplinary action against York (the 2020 Complaint) involving conduct similar to the CFTC's 2012 case. The 2020 Complaint also named an introducing broker (IB) that York owned and APs of York and the IB as respondents.
13. Among other violations, the 2020 Complaint charged York with a failure to supervise for repeatedly failing to sufficiently investigate suspicious deposit activities occurring from April 2016 to around September 2018 in two accounts

the IB introduced to York, one of which accounts involved an individual who appeared to be operating an unregistered entity (Individual 1).

14. Although York's compliance procedures required the firm to investigate "red flags" involving suspicious deposit activity and, in certain circumstances, perform additional due diligence reviews with a focus on verifying the source of funds, the 2020 Complaint alleged that York failed to follow its procedures regarding investigating "red flags" involving Individual 1.
15. The 2020 Complaint also alleged that the York employee with day-to-day anti-money laundering (AML) monitoring responsibilities ignored blatant inconsistencies and contradictory information that Individual 1 provided to York during the due diligence review process and that conclusions the York employee reached during the due diligence reviews were wrong and not supported by verifiable and independent sources, as required by York's procedures.
16. York and the other respondents settled the 2020 Complaint. In its Decision, an NFA Hearing Panel imposed a \$120,000 fine against the IB (and, indirectly, York given its ownership of the IB) and a \$20,000 fine against the IB's AP.
17. The Hearing Panel imposed no direct monetary sanction against York. However, the Hearing Panel found that the firm had failed to diligently supervise in connection with the 2020 Complaint's allegations that York failed to sufficiently investigate suspicious deposit activity, failed to follow its compliance procedures and failed to conduct adequate due diligence reviews.

18. More recently, through examinations of NinjaTrader in 2023 and 2024, NFA again identified deficiencies associated with the firm's implementation of its AML program and supervision of its operations and employees.
19. As alleged further below, these deficiencies related to inadequate monitoring of suspicious activity and the Financial Crime Enforcement Network's (FinCEN) bi-weekly notifications, along with NinjaTrader using processes the firm failed to incorporate into its written procedures involving accounts in high-risk jurisdictions.

APPLICABLE RULES

20. NFA Compliance Rule 2-9(c) and its related Interpretive Notice 9045 (AML Interpretive Notice or the Notice) require FCM Members to develop and implement a written AML program. NFA Compliance Rule 2-9(a) also states, in pertinent part, that a firm's AML program must establish and implement policies, procedures and internal controls reasonably designed to achieve compliance with the applicable requirements of the Bank Secrecy Act and the implementing regulations thereunder.
21. Among other things, the AML Interpretive Notice highlights minimum standards that are part of an adequate AML program and provides additional guidance on satisfying the requirements of NFA Compliance Rule 2-9(c), which include:
 - monitoring and reporting suspicious activity, including having a set of systems and procedures designed to detect and report suspicious activity;
 - training appropriate staff to monitor cash and trading activity to detect unusual transactions;
 - providing employees with examples of behavior or activity that should raise a "red flag" and cause further inquiry; and

- reviewing unusual wire transfer activity, including those that involve an unexpected or extensive number of transfers by a particular customer during a particular period.
22. The Notice discusses the requirements for a firm to have appropriate risk-based procedures for conducting ongoing customer due diligence, including conducting ongoing monitoring to identify and report suspicious transactions.
 23. In addition, the Notice requires FCM Members to develop procedures to access and respond timely to FinCEN's Section 314(a) subject lists that are published bi-weekly and identify individuals, entities or organizations that various law enforcement agencies suspect are engaging in money laundering or terrorist financing.
 24. NFA Compliance Rule 2-9(c) and the Notice also require a firm's AML program to provide for independent testing of the adequacy of the AML compliance program.
 25. NFA Compliance Rule 2-9(a) requires NFA Members to diligently supervise their employees and agents in the conduct of their commodity interest activities for or on behalf of the Member. NFA Compliance Rule 2-9(a) also requires each Associate who has 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 RULE 2-9(c): FAILURE TO IMPLEMENT AN ADEQUATE AML PROGRAM.

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

Failure to Adequately Monitor Accounts with Suspicious Activity

27. Under the AML Interpretive Notice, NinjaTrader is required to develop and implement a written AML program, which includes a set of systems and procedures designed to detect and report suspicious activity.
28. When Ninja Group acquired York in December 2020, NinjaTrader adopted the AML program that York had been utilizing.
29. As part of its 2023 exam, NFA reviewed NinjaTrader's written AML program dated December 31, 2022 and noted the procedures were largely the same as York's. However, the firm had added technology enhancements and AML team members to help deal with the higher volume of accounts the firm had acquired since 2021.
30. At the time of the 2023 exam, NinjaTrader's AML team consisted of three AML analysts who reported to the AML officer who, in turn, reported to Cavanaugh.
31. Two of the AML analysts focused on account opening, and the third AML analyst focused on investigating suspicious account activity.
32. NinjaTrader's compliance and risk systems automatically generated alerts based on suspicious deposit activity by customers that exceeded certain pre-defined thresholds, as described below:
 - the amount deposited into the account [REDACTED] was greater than [REDACTED] of the account's stated yearly income; or
 - the total amount deposited into the account [REDACTED] was greater than [REDACTED] of an account's liquid net worth; or
 - the total amount deposited into the account [REDACTED] was greater than [REDACTED] of an account's stated net worth; or
 - total deposits exceeded [REDACTED].

33. The firm based the threshold amounts on financial information customers provided at account opening or an annual update.
34. Alerts appeared on a system dashboard, referred to as the "Daily Red Flag" report, which the AML team could access.
35. An alert on the Daily Red Flag report triggered additional due diligence procedures, which involved a member of the AML team analyzing the account to determine the reasons the customer went over a threshold [REDACTED]. The procedures also required the AML analyst to consider the length of time the account had been open and any dramatic change in the frequency or size of deposits.
36. The purpose of the alerts was for the AML analyst to determine if enhanced due diligence was necessary.
37. According to the AML program, enhanced due diligence centered on the source of funds and may have included the AML analyst obtaining the account holder's statement of net worth or reviewing the account holder's employment information, tax records, bank statements, or other information depending upon the perceived risk.
38. As alleged above, one AML analyst at NinjaTrader focused on investigating suspicious account activity and reviewing Daily Red Flag alerts. As part of the Daily Red Flag alert review, the AML analyst determined if enhanced due diligence should be conducted and consulted with the firm's AML officer, if necessary.

39. The analyst entered the action taken on the alert into the system, which entries the AML officer reviewed. The AML officer also escalated Daily Red Flag alerts to Cavanaugh, as necessary.
40. The Daily Red Flag report reflected deposit activity "flagged" by account number.
41. However, if a customer with more than one account used different IBs to introduce those accounts to NinjaTrader, the firm's AML system did not combine the accounts to assess the customer's deposit activity overall or trigger an alert when the aggregated deposit activity in the customer's accounts exceeded a threshold.
42. In contrast, NFA noted that NinjaTrader configured its system to combine a customer's accounts, including those introduced by different IBs, for purposes of withdrawal activity.
43. Although a small number of NinjaTrader customers had more than one account introduced by different IBs, the Daily Red Flag report limitation prevented NinjaTrader from having a complete picture of an account holder's wire/deposit activity in those circumstances.
44. Further, according to NinjaTrader's AML program procedures, the triggers were reset once an AML analyst reviewed an account on the Daily Red Flag report.
45. Therefore, the firm's system only looked at new deposit activity after the reset date for purposes of monitoring deposits that might again exceed the pre-defined thresholds.
46. During the 2023 exam, NFA reviewed a sample of five alerts on the Daily Red Flag report generated on February 13, 2023 and found the firm failed to conduct

enhanced due diligence with respect to two accounts on the report, despite unusual activity involving them.

Customer A

47. One of the accounts involved a single-member LLC formed in August 2022 that opened an account with NinjaTrader in September 2022 (Customer A).
48. Customer A's account application reported income and net worth of less than \$50,000 and liquid net worth of less than \$25,000.
49. The account application also reported "inheritance" as Customer A's source of risk capital; two years' experience trading stocks/bonds, funds and futures; and "speculation" as its trading objective.
50. Between account opening and February 2023, Customer A's account appeared on the Daily Red Flag report three times because account deposits exceeded alert thresholds. Specifically, during this period, deposits to the account ranged from \$5,000 to \$20,000 and totaled \$82,000.
51. The AML analyst elected each time not to conduct enhanced due diligence. Notes the analyst entered in response to each alert reflected total deposits were '[REDACTED]'
52. However, the notes to all three alerts also stated this activity was "reasonable" given that '[REDACTED]'
- [REDACTED] The AML analyst concluded the review for all three alerts by indicating the firm would '[REDACTED]' and noted for the most recent two alerts that deposits were '[REDACTED]'

53. NFA found the AML analyst conducted the reviews without contacting or obtaining further documents or information from Customer A.
54. Therefore, NFA questioned the basis for the AML analyst's comments and conclusions and reviewed the account more closely.
55. NFA's review found the owner of Customer A was 20 years-old at the time the account opened. This information, and the fact that the source of Customer A's capital was "inheritance," raised questions about the AML analyst's conclusions (e.g., newer "corporate" account, "capital infusion").
56. The owner's age also raised suspicions about whether he had two years' experience trading stocks/bonds, funds and futures, as stated on the account application.
57. In further reviewing the account application, NFA noticed that Customer A listed an individual as one of its managers and authorized to trade the account (Individual 2). The owner of Customer A also identified Individual 2 as his father.
58. NinjaTrader questioned Individual 2's role with the account. In a September 9, 2022 email responding to the firm, the owner of Customer A indicated that Individual 2 was not authorized to trade the account.
59. NFA conducted an Internet search on Individual 2 and learned he pled guilty in August 2019 to money laundering and aiding and abetting in connection with a scheme to defraud a nonprofit healthcare system in Colorado. Individual 2 was sentenced in October 2019 to five years in prison and released on probation in late November 2022. These findings raised further questions about Customer A's account.

60. NFA also obtained emails from NinjaTrader that Individual 2 signed in connection with a demo account he had opened and utilized at NinjaTrader several months before Customer A opened its account. Significantly, NFA noticed that NinjaTrader communicated with Individual 2 at the same email address the firm used to communicate with Customer A, including to provide login credentials for Customer A's account.
61. NFA also reviewed telephone recordings that involved Individual 2 and NinjaTrader representatives. In a September 1, 2022 call, Individual 2 identified himself to the NinjaTrader representative by name and said he was calling about filling out the information to open a new account. The timing of this call coincided with the opening of Customer A's account at NinjaTrader.
62. A November 1, 2022 call also appeared to involve Individual 2. Individual 2 provided the NinjaTrader representative with the email and secondary phone number on Customer A's account. After Individual 2 provided the identifying information, Individual 2 asked the NinjaTrader representative to cancel a buy limit order, which the NinjaTrader representative did and then instructed Individual 2 how to do it himself in the future.
63. This November 2022 communication indicated that Individual 2 exercised trading authority over Customer A's account, contrary to the owner's written instructions to NinjaTrader, as described above in paragraph 58.
64. In addition, these telephone communications with Individual 2 appear to have occurred while he was in prison (*i.e.*, before or during November 2022).

65. From September 2022 to August 2023, NFA noticed that Customer A deposited over \$104,000 to the account, [REDACTED]. [REDACTED] NFA also noted the account had no withdrawals and lost over \$100,000 in trading, including commissions and fees.
66. NFA's inquiries about Customer A's account and the firm's handling of the "red flags" prompted NinjaTrader to conduct enhanced due diligence on the account.
67. NinjaTrader attempted to reach Customer A for updated financial information and proof of funds. However, Customer A failed to provide the required records, so NinjaTrader closed the account in August 2023.

Customer B

68. The second account belonged to an individual who opened an account at NinjaTrader in September 2022 (Customer B). The account application stated Customer B was a nail technician and reported income, net worth and liquid net worth of \$70,000.
69. A February 2023 deposit of \$2,600 into Customer B's account caused total deposits over the previous five months to reach \$53,000, which [REDACTED] [REDACTED] triggered an alert.
70. The AML analyst who reviewed the alert noted the account was '[REDACTED]' and focused on year-to-date deposits of \$13,000, stating that they were [REDACTED] [REDACTED].
71. The analyst concluded the \$2,600 deposit was "reasonable" and did not conduct any follow-up due diligence, even though the \$53,000 in deposits over the

previous five months represented [REDACTED]
[REDACTED]

Customer C

72. In July 2023, NinjaTrader's compliance officer contacted NFA about a different customer, who was 70 years old, had three accounts with the firm and was possibly acting in a capacity that required CFTC registration (Customer C).
73. Customer C opened one account at York in 2020, prior to the Ninja Group acquisition, which account was introduced by an unaffiliated IB (the 2020 account).
74. The second and third accounts opened at NinjaTrader in 2022 and were introduced by an IB that Ninja Group owned (the 2022 accounts).
75. NinjaTrader deactivated the accounts on June 29, 2023, after the 2020 account was flagged on the Daily Red Flag report a second time and Customer C failed to provide requested financial information and proof of funds.
76. At around the same time, the unaffiliated IB who introduced Customer C's 2020 account informed NinjaTrader about a complaint the IB had received from an individual who claimed that Customer C had obtained over \$300,000 from 20 to 30 individuals to trade on their behalf.
77. NFA contacted some of the individuals involved, who confirmed they gave Customer C funds for trading purposes. NFA's information indicates that Customer C may have been operating in a capacity that required CFTC registration.

78. NFA also reviewed Customer C's accounts and interactions with NinjaTrader before the firm deactivated her accounts. NFA found NinjaTrader might have discovered Customer C's conduct sooner if the firm had performed a comprehensive review of the accounts and her activity.
79. Specifically, Customer C indicated in the 2020 account application that she was retired, had a net worth between \$150,000 and \$200,000, a liquid net worth between \$90,000 and \$100,000, and an annual income between \$90,000 and \$100,000.
80. On the 2022 account application, Customer C indicated her annual income of between \$70,000 and \$90,000 (which had decreased from 2020), with a net worth between \$300,000 and \$400,000 and a liquid net worth between \$150,000 and \$200,000 (which had both increased from 2020). Both account applications stated her source of capital was "savings."
81. As alleged above, Customer C's 2020 account appeared twice on the Daily Red Flag report. The account triggered its first alert on June 5, 2023 because Customer C had deposited more than \$100,000 [REDACTED]
[REDACTED]
82. The AML analyst who reviewed the alert incorrectly noted the account opened in February 2023, instead of April 2020. The analyst further noted that calendar year-to-date deposits of \$84,000 were "[REDACTED]"
83. The AML analyst did not conduct enhanced due diligence of Customer C and, instead, simply added a note stating the firm would "[REDACTED]"

84. However, if the AML analyst had conducted a broader review of the 2020 account at the time of the alert, she should have noticed that Customer C had begun exhibiting unusual trading behavior in May 2023 by conducting nearly 11,600 trades. Prior to that time, Customer C last traded the account in December 2022, when she only conducted 76 trades during the month.
85. The unusually higher trade volume continued through June 20, 2023, when NinjaTrader put the account on a liquidation hold after Customer C placed nearly 11,000 trades during the month.
86. Moreover, starting in late May, Customer C began calling NinjaTrader almost daily, and often multiple times each day. For example, on June 5, 2023—the same day the AML analyst reviewed Customer C's deposit activity—Customer C had called NinjaTrader's trade desk seven times. On June 8, 2023, Customer C called the trade desk ten times.
87. NFA reviewed recordings of conversations between NinjaTrader's trade desk and Customer C. The substance of those conversations should have raised questions at NinjaTrader about Customer C's understanding of futures trading, margin requirements, and her account statements.
88. During one conversation in early June, the NinjaTrader representative informed Customer C that it was the third straight day she had called, and the third straight day he had to explain to her the financial implications of her trading positions. He informed her that if she could not demonstrate an understanding of her trading, he would be forced to refer her accounts to the Compliance Department for closure.

89. NFA found nothing to indicate NinjaTrader's representative referred Customer C to the firm's compliance department in early June, and she continued to trade and call the representative in the days that followed.
90. In addition, Customer C suffered over \$105,000 in trading losses during the first two weeks of June 2023, which caught the attention of the firm's risk and compliance groups.
91. On June 14, 2023, the second Daily Red Flag alert on Customer C's 2020 account occurred, when her additional deposits since the previous alert totaled almost \$110,000 [REDACTED].
92. The second alert prompted the AML analyst to conduct enhanced due diligence and request additional information from Customer C.
93. Because of the due diligence review, her changed trading activity and other information, NinjaTrader liquidated and locked Customer C's account on June 21, 2023. However, the firm's system unlocked her account the next day. Therefore, Customer C continued to trade on June 22, which trades the firm later liquidated due to insufficient margin.
94. As alleged above, NinjaTrader closed Customer C's account at the end of June 2023, after she failed to respond fully to the firm's enhanced due diligence requests.
95. In addition to conducting a limited review of Customer C and her activity when the June 5, 2023 alert triggered, NFA found that the limitation with the Daily Red Flag report, described above, also prevented NinjaTrader from having a complete picture of Customer C's activities at the firm.

96. As alleged in paragraphs 41 through 43, the Daily Red Flag report generated alerts for [REDACTED]
[REDACTED]
97. NFA found that Customer C deposited over \$43,000 into the 2020 account between October 2021 and September 2022, and deposited over \$55,000 into the 2022 accounts from February 2022 (when the accounts were opened) to September 2022. When combined, Customer C deposited over \$98,000 into the three accounts [REDACTED]
98. If NinjaTrader's Daily Red Flag report had [REDACTED] Customer C's accounts, the accounts would have triggered an alert in September 2022, when Customer C's [REDACTED]
[REDACTED]. Instead, the first alert did not trigger until nine months later (i.e., June 2023).

Other Customers' Accounts

99. Given these circumstances, NFA analyzed 16 other accounts that triggered alerts between December 2022 and February 2023. For four of the accounts, NFA found the AML team failed to adequately address the alerts and, as a result, did not conduct enhanced due diligence.
100. In one instance, an IT manager (Customer D) with an annual income of \$90,000 and a net worth of \$90,000 deposited \$115,000 into his account [REDACTED]
[REDACTED]. The AML analyst concluded—without obtaining any additional substantiation—that the customer's income supported the deposits and took no further action.

101. In another instance, a banker (Customer E) with annual income of \$150,000 and a net worth of \$120,000 deposited \$215,000 into his account [REDACTED]. Again, the AML analyst concluded—without obtaining any additional substantiation—that [REDACTED] and took no further action.
102. In the June 2023 exam report, NFA cited NinjaTrader for failing to adequately monitor accounts with suspicious activity.
103. During its 2024 exam, NFA reviewed five accounts listed on the Daily Red Flag report for a two-week period in January 2024 and found the firm inadequately handled two of them.
104. In both instances, the total account deposits over an extended period exceeded the pre-defined thresholds. However, the AML analyst limited her review to the deposits made [REDACTED], which she noted were '[REDACTED] [REDACTED]' and, as a result, did not conduct enhanced due diligence.
105. NFA cited these findings in its 2024 exam report. The firm's response, which Cavanaugh signed as the president of the firm, stated that the deposits triggering the two alerts discussed above exceeded the thresholds by less than [REDACTED] and did not require enhanced due diligence.
106. However, this position demonstrates a lax attitude towards NinjaTrader's obligation to comply with AML requirements and monitor for suspicious activity. Although the thresholds in the firm's system triggered alerts, NFA's 2023 and 2024 exam findings illustrate situations where the firm failed to investigate

suspicious deposit activity or minimized the alerts' significance, even when presented with inconsistent and contradictory information.

107. This attitude also creates an environment for further, more significant AML violations and other misconduct to occur, as illustrated by the accounts NinjaTrader held for Customer C, who appeared to be operating in an unregistered capacity and which is similar to the conduct alleged in the 2020 Complaint against the firm's predecessor, York.

Failure to Comply with FinCEN Requirements

108. Pursuant to the AML Interpretive Notice, FCMs must comply with FinCEN Section 314(a) by monitoring FinCEN's biweekly posts that identify individuals, entities or organizations that various law enforcement agencies suspect are engaging in terrorism or money laundering and report positive matches to FinCEN within two weeks.
109. NinjaTrader's AML program required the firm to review FinCEN's posts and query records for matches, including accounts maintained by named subjects during the preceding 12 months and transactions conducted within the previous six months.
110. NFA tested NinjaTrader's February 7, 2023 FinCEN screening and determined the firm failed to monitor nearly 61,000 accounts to ensure none of them were on FinCEN's 314(a) list.
111. When NFA asked why the firm did not screen the accounts, the AML officer indicated the accounts had \$0 balances and no one at the firm realized the screening process had been omitting them.

Accounts in Blocked Countries

112. NFA Compliance Rule 2-9(c) and its accompanying Interpretive Notice require NinjaTrader to establish and implement written procedures related to its AML program. It is implicit the firm's AML procedures should be consistent with its internal AML processes and practices.
113. As part of its foreign accounts monitoring, NinjaTrader's AML program required the firm to identify accounts located in certain countries or regions identified as having inadequate AML measures.
114. NinjaTrader's AML program stated that if an entity or person was located in a prohibited country, the firm was to immediately cease doing business with that entity or person.
115. To comply with these AML program requirements, the firm utilized a "Blocked Country List." NinjaTrader had created the Blocked Country List to identify countries of concern from multiple sources, including OFAC, the Financial Action Task Force and the US State Department, and added other countries the firm had identified for business reasons.
116. Nevertheless, NFA found that, as of February 28, 2023, NinjaTrader had opened or maintained more than 475 accounts for customers located in countries the firm had added to its Blocked Country List.
117. NinjaTrader had apparently opened over 100 of the accounts itself and acquired the remaining accounts through the bulk transfer of accounts from other Member firms since August 2021, even though the account holders were located in countries on the Blocked Country List.

118. When NFA inquired during the 2023 exam about the existence of these accounts, the firm's AML officer indicated that he and Cavanaugh knew when NinjaTrader received these accounts through bulk transfer process that the AML program required the firm to immediately cease doing business with a person on the Blocked Country List.
119. The AML officer further explained that NinjaTrader's "risk profile" had changed after Ninja Group acquired the firm in 2020 and indicated the firm was now more willing to accept accounts from high-risk jurisdictions, including those that appeared on the Blocked Country list.
120. Despite changing its "risk profile" regarding accounts from high-risk jurisdictions, NinjaTrader failed to modify its written AML program or Blocked Country list to reflect the firm's revised policy.
121. In its response to NFA's 2023 exam findings, NinjaTrader also admitted the firm's AML practices were not aligned with its written AML program procedures.
122. By reason of the foregoing acts and omissions, NinjaTrader is charged with violations of NFA Compliance Rule 2-9(c).

COUNT II

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

123. The foregoing paragraphs are realleged as if fully stated herein.
124. Under Compliance Rule 2-9(a), NinjaTrader is required to diligently supervise its employees and agents in the conduct of their commodity interest activities for or on behalf of the firm.

125. Under NFA Compliance Rule 2-9(a), Cavanaugh is required to diligently exercise his supervisory duties in the conduct of his commodity interest activities on behalf of NinjaTrader.
126. As alleged in Count I, NFA's 2023 and 2024 exams found serious AML program deficiencies at NinjaTrader. The most serious finding related to the firm's inadequate monitoring of suspicious activity, which involved a failure to ensure that suspicious deposit activity was properly investigated. This shortcoming reflects NinjaTrader's failure to supervise.
127. Moreover, NinjaTrader failed to review and evaluate information received across different areas of the firm to make a complete assessment of an account holder's activities when alerts appeared on the Daily Red Flag report.
128. As alleged above, NinjaTrader personnel overlooked or ignored that Individual 2 traded Customer A's account, even though the owner of Customer indicated Individual 2 was not authorized to trade the account.
129. Similarly, firm personnel overlooked or ignored the dramatic increase in Customer C's trading activity starting in May 2023, which trading coincided with her daily calls to NinjaTrader and raised questions about her knowledge and understanding of trading, margin and other issues.
130. It also appears that the firm's AML, risk and compliance teams did not collectively communicate about Customer C until late June 2023, after the second alert on her 2020 account triggered. In addition, the limitation with the Daily Red Flag report further prevented the firm from monitoring Customer C fully.

131. These circumstances illustrate a lack of communication across departments and inconsistent processes at NinjaTrader, which reflect a failure to supervise the firm holistically.
132. The failure to supervise also extends to Cavanaugh, as the president of NinjaTrader and the individual at the firm who has directly supervised NinjaTrader's AML program since late 2021, when the AML officer began reporting directly to him.
133. In his oversight role, Cavanaugh directly approved the AML program and any changes to it or the underlying procedures. In addition, the AML officer indicated to NFA that he and Cavanaugh regularly communicated about the handling of "red flag" alerts, including during periodic calls and in weekly meetings.
134. Cavanaugh indicated to NFA that he was deeply involved with the bulk transfers and led the firm's acquisition of additional accounts. He also told NFA that he was aware the firm intended to take accounts from high-risk countries and agreed to accept them, in part, because the firm relied on the previous FCM's AML program.
135. However, having a written AML program is only one aspect of the firm's obligations under NFA Requirements. NinjaTrader—and Cavanaugh, as the individual with ultimate supervisory oversight of the firm and the AML program—must also implement the AML program adequately. Count 1 describes several instances that demonstrate the firm and Cavanaugh fell short in fulfilling their supervisory obligations.

136. Cavanaugh was also aware that the firm's written AML program did not align with its practices involving the firm's Blocked Country List, but failed to take timely action to ensure NinjaTrader modified its written AML program to be consistent with the firm's current practices.
137. Another troubling aspect of NinjaTrader's and Cavanaugh's lack of supervision related to the previous independent AML auditor retained to test the effectiveness of the firm's AML program (*i.e.*, annual AML audit).
138. In both 2021 and 2022, the AML auditor had no findings in connection with the firm's annual AML audit. However, according to NinjaTrader's AML officer, the AML audits were a "rubber stamp." Similarly, Cavanaugh considered the AML auditor's report to be a "form letter."
139. It was not until NFA issued its 2023 exam findings that NinjaTrader changed its independent AML auditor. Nevertheless, the two individuals at NinjaTrader with responsibility for ensuring the effectiveness of the annual AML audit ignored the independent auditor's inadequate performance for at least two years.
140. By reason of the foregoing acts and omissions, NinjaTrader and Cavanaugh are charged with violations of NFA Compliance Rule 2-9(a).

PROCEDURAL REQUIREMENTS

ANSWER

You must file a written Answer to the Complaint with NFA within thirty 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 infor-

mation 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

E-Mail: 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 as a result of or in connection with this Complaint, NFA may impose one or more of the following penalties:

- (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 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.

**NATIONAL FUTURES ASSOCIATION
BUSINESS CONDUCT COMMITTEE**

Dated:

11/18/2024

By:

Chair

