

NATIONAL FUTURES ASSOCIATION
BEFORE THE
BUSINESS CONDUCT COMMITTEE

FILED

MAR 25 2026

In the Matter of)
)
DMFIALA LTD)
(NFA ID #309804),)
)
DAVID MICHAEL FIALA)
(NFA ID #265099),)
)
and)
)
MICHAEL R. HACK)
(NFA ID #392203),)
)
Respondents.)

NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

NFA Case No. 26-BCC-001

COMPLAINT

Having reviewed the investigative report submitted by the Member Oversight 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 DMFiala LTD (DMFiala), David Michael Fiala (Fiala) and Michael R. Hack (Hack).

ALLEGATIONS

JURISDICTION

1. At all times relevant to this Complaint, DMFiala has been an introducing broker (IB) Member of NFA. As such, DMFiala 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, Fiala was an associated person (AP) and principal of DMFiala, and an NFA Associate. As such, Fiala was and is required

to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Further, DMFiala is liable for violations of NFA Requirements committed by Fiala during the course of his activities on behalf of DMFiala.

3. At all times relevant to this Complaint, Hack was an AP of DMFiala, and an NFA Associate. As such, Hack was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Further, DMFiala is liable for violations of NFA Requirements committed by Hack during the course of his activities on behalf of DMFiala.

BACKGROUND

4. DMFiala has been an IB Member since May 2001 and is located in Lincoln, Nebraska.
5. In addition to being an AP and principal of DMFiala, Fiala is the sole owner and president of DMFiala and the individual primarily responsible for overseeing the firm's day-to-day operations.
6. DMFiala currently employs 28 APs who work out of the firm's main office or one of its seven branch offices. Hack is the branch office manager of the firm's Camdenton, Missouri office.
7. DMFiala has been named in one prior NFA disciplinary action, which alleged the firm failed to fully implement its anti-money laundering (AML) program. An NFA Hearing Panel issued a Decision, based on a settlement offer, and ordered the firm to pay a \$15,000 fine. Fiala and Hack have no prior disciplinary history.
8. NFA commenced an exam of DMFiala in September 2023 due to communication recordkeeping concerns identified during a review of the firm's 2023 Member Questionnaire.

9. As alleged in more detail below, NFA's exam confirmed the recordkeeping deficiency and revealed other serious findings, including Hack's use of trade recommendations geared more towards maximizing commissions for himself and the firm, rather than benefiting customers.

APPLICABLE RULES

10. NFA Compliance Rule 2-4 requires Members and Associates to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their commodity futures business. A related Interpretive Notice entitled, "Commissions, Fees and Other Charges," makes clear that a Member or Associate who recommends transactions that maximize commissions without regard to the customers' best interests violates high standards of commercial honor and just and equitable principles of trade under NFA Compliance Rule 2-4.
11. NFA Compliance Rule 2-5 requires, in pertinent part, each Member and Associate to cooperate promptly and fully with NFA in any NFA investigation, inquiry, audit, examination or proceeding regarding compliance with NFA Requirements.
12. NFA Financial Requirements Section 5(b) requires non-guaranteed IBs to file with NFA semi-annual unaudited financial statements (UFS) within 17 business days of the date for which the report is prepared.
13. NFA Financial Requirements Section 5(c) requires, in pertinent part, each Member IB that is required to file any document with or give any notice to the CFTC under CFTC Regulations 1.10 and 1.16 to electronically file one copy of the document with NFA no later than the date the document or notice is due to be filed with or given to the CFTC.

14. CFTC Regulation 1.10 requires, in pertinent part, each IB not registered with the Securities and Exchange Commission as a securities broker-dealer to file with NFA annual financial statements audited by an independent certified or licensed public accountant (AFS) within 90 days of the IB's fiscal year-end.
15. CFTC Regulation 1.16 requires, in pertinent part, each IB to file notice of a change in auditor with NFA within 15 business days after the occurrence.
16. NFA Compliance Rule 2-10(a) requires each Member to maintain adequate books and records necessary and appropriate to conduct its business including, without limitation, the records required to be kept under CFTC Regulations 1.18, 1.32 through 1.37, and 1.71 for the period required under CFTC Regulation 1.31.
17. CFTC Regulation 1.35 requires IBs that have generated over the preceding three years more than \$5 million in aggregate gross revenues from their activities as an IB to keep all written and oral communications provided or received concerning quotes, solicitations, bids, offers, instructions, trading and prices that lead to the execution of a commodity interest transaction (collectively, pre-trade communications), whether transmitted by telephone, voicemail, instant messaging, chat rooms, electronic mail, mobile device or other digital or electronic media.
18. CFTC Regulation 1.31 requires, in pertinent part, IBs and other CFTC registrants that are required to retain oral communications to keep regulatory records of oral communications for a period of not less than one year from the date of the communication.
19. NFA Compliance Rule 2-9(a) provides that each Member shall 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 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 2-4: FAILURE TO OBSERVE HIGH STANDARDS OF COMMERCIAL HONOR AND JUST AND EQUITABLE PRINCIPLES OF TRADE.

20. The foregoing paragraphs are realleged as if fully stated herein.
21. DMFiala typically charged \$50 in commissions per contract and at least \$100 in commissions per spread since spreads have at least two "legs" (*i.e.*, a long and a short leg).
22. The firm's commission payout records indicated that Hack generated \$312,770 in commissions during April through July 2023 (NFA's Testing Period). This amount represented 39% of the firm's overall commission revenue for the period and more than three times the commissions of any other DMFiala AP.
23. Hack's customers consisted of agricultural farmers who hedged their physical crops using broker assistance.
24. However, Hack's trading recommendations did not represent typical hedge activity.
25. Typically, farmers initiate protective trades designed to profit if crop prices fall by, for example, selling futures, buying put options or selling call options. Additionally, the trades tend to be longer-dated and remain open until close to delivery or expiration.

26. However, the trades Hack recommended rarely involved futures and typically involved short-dated options that he frequently adjusted or "rolled" into new positions close to expiration.
27. This activity generated significant commission revenue for DMFiala and Hack.
28. None of Hack's customers granted him discretion over their accounts.
29. However, NFA found that many of Hack's customers relied on his trading recommendations and some customers had little to no prior trading experience before they began doing business with Hack.
30. Hack's customers authorized the trades placed in their accounts. Yet, some customers indicated they did not understand Hack's trading recommendations, and Hack often failed to adequately explain his trading rationale.
31. As a result, some customers agreed to trades that made no economic sense.
32. These initial findings caused NFA to investigate further.
33. NFA initially analyzed the accounts of four customers who generated the most commissions for Hack and DMFiala during NFA's Testing Period. This review found elevated commission-to-equity (C/E) ratios that ranged from 13% to more than 130% and often exceeded 30% during NFA's Testing Period.
34. Trading in the four customers' accounts primarily involved Hack actively buying and selling vertical option spreads multiple times per month.
35. While vertical spreads inherently have limited profit and loss potential, they are also impacted by the commissions charged on each leg of the spread.

Specifically, the commission charges add to the total cost (or take away from the total credit) of the transaction and reduce the maximum profit potential to the customer.

36. Generally, elevated C/E ratios above 30% warrant additional testing to assess the impact of commissions and fees (collectively, commission charges) on customer accounts.
37. Therefore, NFA calculated a "percent of net premium" (PNP) for a sample of vertical spreads in the four customer accounts to determine how much the commission charges consumed of the spreads' maximum profit potential.
38. NFA derived this PNP value by dividing the total commission charges by the net option premium (*i.e.*, the difference between the price of the option sold and the price of the option purchased). Elevated PNP values that are frequently above 40% raise concern because of the material impact to profit potential over time.
39. The PNPs for the four customers' trades that NFA tested ranged from 15% to 58% and exceeded 40% for approximately one-third of the trades (or 11 of 32 trades). These results showed that the large commission charges materially reduced the customers' maximum profit potential for the trades tested.
40. NFA also found that Hack frequently adjusted or "rolled" the option strikes by exiting one leg of the spread and immediately reestablishing the position at a similar strike price, often in the same expiration period and within days of the new position expiring.
41. Although there are legitimate reasons to roll positions (*e.g.*, to manage risk or lock in a profit), each roll created a new set of commission charges without materially altering the profit potential of the initial trade. Additionally, Hack often engaged in this activity close to expiration, which left little time for the new position to react profitably to market forces.

42. As a result, this "rolling" activity rarely benefited Hack's customers and often maximized commission revenues for DMFiala and Hack.
43. These findings caused NFA to expand testing. NFA analyzed IRS Form 1099s to assess the overall profits and losses that Hack's customers incurred in 2023 and 2024.
44. This analysis revealed DMFiala and Hack collected nearly \$1.3 million in commissions during the two-year period, while every one of Hack's customers incurred losses, which totaled approximately \$2.3 million.
45. NFA also analyzed performance in other customers' accounts, where Hack recommended vertical spreads and other trading strategies (e.g., short-dated out-of-the-money options, diagonal option spreads). Similar to the four accounts initially analyzed, these accounts had elevated C/E ratios. Additionally, NFA's PNP analysis of one customer's account uncovered 10 trades with PNPs that ranged from 52% to 133%.
46. Included below are summaries of the activity found in three customers' accounts—starting with one of the four customers who generated the most commissions for Hack during NFA's Testing Period, followed by two other customers whom NFA interviewed. These summaries provide additional details about the customers and include examples illustrating the commission maximizing techniques Hack used to benefit himself and DMFiala, without regard for their customers' best interests.

Customer A

47. Customer A is a farming company that opened its account in May 2022 for hedging purposes and ceased trading in July 2025.

48. NFA analyzed Customer A's account activity during NFA's Testing Period and found the company primarily traded vertical option spreads with PNPs that ranged from around 18% to over 55% for the trades tested.
49. Customer A also incurred approximately \$85,000 in trading losses and paid more than \$103,000 in commissions charges, for a total loss of more than \$188,000 during the life of the account.
50. The following trade illustrates how the commission charges impacted Hack's trading recommendations for Customer A.
51. On June 26, 2023, Hack initiated a vertical spread for Customer A by selling 10 August 2023 \$5.90 put options and buying 10 August 2023 \$5.80 put options. Customer A collected net premium of \$2,400 and paid commission charges of approximately \$1,080 on the spread, resulting in a PNP of over 44%.
52. NFA's attempts to contact Customer A were unsuccessful, so NFA reviewed recorded calls between Customer A's representative (Representative A) and Hack for the period July 2024 through July 2025.
53. Those recordings revealed that Representative A contacted Hack on numerous occasions to express concerns about Hack's trading methods, as well as the losses in Customer A's account and their impact on the company's farming operations.
54. For example, during a September 2024 call, Representative A told Hack, "we come up short paying our note from a year ago, and I can tell ya right now [we are]...pretty upset because we paid...all that money this last year and none of it worked for us...and that's about what we're short on our note."

55. The following month, Representative A contacted Hack again, reiterating concerns about the losses in Customer A's account stating, "we could spend this three, four cents, which is not a real big deal, but when you're only scrapping for 20 cents, three, four cents is a lot of money....One of these days we gotta have some money coming into our account instead going out of our account."
(Emphasis added.)
56. In addition to vertical spreads, Customer A traded out-of-the-money options that Hack rolled into new positions on a near-weekly basis.
57. During a November 2024 call with Hack, Representative A said he did not like buying options every two or three weeks and preferred instead to buy one call option.
58. Despite Representative A's concerns, Hack continued to roll Customer A's options on a near-weekly basis.
59. During an April 2025 call, Representative A reiterated to Hack that Customer A did not like trading one-week options and reminded Hack that the company had spent \$45,000 and none of those options worked.
60. Nonetheless, Hack initiated a four-lot put option in Customer A's account on April 25, 2025, which Hack rolled into new positions on a near-weekly basis on nine separate occasions through June 6, 2025.
61. The resulting net loss on this series of trades totaled \$5 due to commission charges in excess of \$2,200, which could have been avoided if Hack had heeded Representative A's directive not to trade weekly options.
62. Customer A ceased trading with DMFiala and Hack the following month.

Customer B

63. Customer B was a 63-year-old farmer when he opened his account in March 2021 for hedging purposes. Customer B had no prior experience trading futures or options before he became a customer of DMFiala and Hack.
64. Customer B deposited more than \$260,000 into his account over time but had a balance of less than \$12,000 at the end of 2025, with no withdrawals.
65. Although Customer B had trading gains of approximately \$14,000 during this four-year period, he paid nearly \$263,000 in commission charges, resulting in a net loss of approximately \$249,000, which was more than double his annual income.
66. Like many of Hack's customers, NFA found a variety of trades in Customer B's account, including short-dated out-of-the-money options, option spreads and small-lot futures contracts.
67. NFA spoke to Customer B who said that he was aware of the total commissions paid but stated that Hack did not explain the effect of commission charges on the profit potential of the individual trades Hack recommended. Customer B also stated that he was not happy with the losses in his account but believed Hack's trade recommendations considered his hedging needs.
68. However, NFA finds Hack's trade recommendations problematic for several reasons.
69. First, many of the trades Hack recommended to Customer B had extremely high PNPs, which ranged from around 52% to over 130% for the trades tested and made it difficult for Customer B to profit given the high commission charges.

70. For example, on June 9, 2021, Hack initiated a vertical spread for Customer B by purchasing 10 July 2021 \$5.60 put options and selling 10 July 2021 \$5.30 put options. Customer B paid approximately \$810 in net premium and \$1,078 in commission charges for the spread, resulting in a PNP of more than 133%. Accordingly, the value of the spread would have to almost double in order for Customer B to realize a profit.
71. Second, from October 2023 through June 2025, Customer B had only one month with a C/E ratio of less than 30%, with extremely high ratios in other months of 108%, 200%, and 377%. In fact, Customer B had an average C/E ratio of 79% in his account throughout this period.
72. Additionally, Hack repeatedly rolled the option strikes in Customer B's account or let them expire to open a new weekly position, often within the same expiration period.
73. This activity left little time for the new position to perform but generated additional commissions for DMFiala and Hack.
74. For example, on June 5, 2024, Hack rolled the long leg of an existing put spread by selling 15 June 2024 \$4.45 put options for a net loss of \$122 and purchasing 15 June 2024 \$4.35 put options for approximately \$563 in premium and \$811 in commission charges.
75. Not only would the value of the new position have to increase by 144% (or more than double) in order for Customer B to realize a profit, but the new position expired in only two days, leaving very little time for the position to perform.
76. Ultimately, the \$4.35 put options expired worthless, resulting in an additional loss of nearly \$1,400 for Customer B.

77. Hack also initiated multiple option spreads in Customer B's account that generated more revenue for DMFiala and Hack than Customer B could ever make on the spread.
78. To illustrate, on August 16, 2023, Hack initiated a vertical spread for Customer B by purchasing 15 October 2023 \$4.60 put options and selling 15 October 2023 \$4.70 put options for a net premium of approximately \$2,500. This \$2,500 represented Customer B's maximum profit potential on the spread but, after factoring in commission charges of more than \$1,600, Customer B's maximum profit potential declined to about \$900.

Customer C

79. Customer C was a 65-year-old farmer when he opened his account in December 2024 for hedging purposes.
80. Between February and August 2025, Customer C deposited \$12,300 into his account but only \$62 remained at the end of August when he stopped trading. During this seven-month period, Customer C had trading gains of approximately \$3,800 but paid more than \$16,000 in commission charges, for a net loss of over \$12,200.
81. The trading in Customer C's account predominately centered around buying short-dated out-of-the-money options and frequently rolling them into new positions.
82. Many of the trades Hack recommended to Customer C were concerning due to the timing of the rolls and questionable necessity of the newly initiated, similar positions. Plus, Customer C had an average C/E ratio of 45% over the six months the account was active, with one month exceeding 132%.

83. NFA spoke with Customer C who said that he was unaware of the total commission charges paid during the period and found the \$16,000 amount "shocking." Customer C believed the commission rate was disclosed to him during account opening but he did not know whether this was a commonly accepted rate. Customer C also remarked there was a lot of "farming the farmer" and went on to say that he never saw any returns in his account because Hack was "always reinvesting," apparently in reference to Hack's "rolling" activity.
84. In fact, NFA found the options Hack recommended to Customer C were rolled into new positions on a near-weekly basis.
85. Hack's use of short-dated options was one reason for the frequent rolls.
86. Since short-dated, out-of-the-money options tend to be inexpensive, Hack could recommend more contracts, which in turn generated more commissions for DMFiala and himself.
87. However, the short expiration period required Hack to continuously roll the options forward into new options with later expirations in order to maintain the customer's hedge. This "rolling" activity generated additional commissions for DMFiala and Hack while hampering Customer C's profit potential.
88. Hack also recommended rolling Customer C's positions from one strike to a similar strike within the same expiration period.
89. These rolls depleted Customer C's capital while increasing Hack's commission revenue, as illustrated by the following example.
90. On March 27, 2025, the day before expiration, Hack rolled Customer C's corn position by selling 20 March 2025 \$4.55 put options for a net gain of \$3,200 and purchasing 20 March 2025 \$4.45 put options for \$625 in premium and \$1,080 in

commission charges. Given the large commission charges, the value of the new position had to more than double in just one day to be profitable. However, the new position expired worthless.

91. More significantly, the March 27, 2025 trades made no economic sense for Customer C in light of the options' expiration.
92. If Hack believed the market would continue going down, he should have kept the \$4.55 options open.
93. If he believed the market would move up, then he should have sold the \$4.55 options and not purchased the \$4.45 options, which depleted Customer C's capital through the additional premium and commission charges he paid.
94. Customer C told NFA that he questioned Hack about his trading strategy and indicated that Hack "got very defensive." Customer C indicated that he had expressed interest in longer dated options but said, "that's not what [Hack] does." Ultimately, Customer C said he decided to stop trading because he did not agree with Hack's strategy or his use of short-dated options.
95. By reason of the foregoing acts and omissions, DMFiala and Hack are charged with violating NFA Compliance Rule 2-4.

COUNT II

VIOLATIONS OF NFA COMPLIANCE RULE 2-5: FAILURE TO COOPERATE.

96. The foregoing paragraphs are realleged as if fully stated herein.
97. During the 2023 exam and subsequent investigation into Hack's trading activities, DMFiala and Fiala repeatedly provided incomplete and untimely responses to NFA's requests.

98. The firm frequently missed both original and extended deadlines because Fiala often failed to review NFA's requests and/or ask clarifying questions before the response deadlines.
99. Additionally, the firm and Fiala repeatedly provided incomplete and convoluted responses to NFA's requests.
100. For example, on August 13, 2025, NFA asked whether the firm had adjusted any customer commission rates due to trading irregularities identified during the firm's supervisory reviews. The following day, Fiala responded:
- Yes but NA—customer commission rates can be changed up or down, or customers trade more in some years, days or months, and less in others. They can have more than one account open and have different rates or different firms. Guidance is the purpose of the NFA from the audits, working with FCMs and other IBs....
101. Since the response failed to address NFA's question about whether the firm had adjusted commission rates due to trading irregularities, NFA sent an August 15, 2025 email to clarify the question.
102. NFA's email explained the question related to the firm's written supervisory policy to review customer account statements for "trading irregularities" and gave a new response deadline of August 20, 2025.
103. On August 28, 2025, eight days after the new deadline, Fiala responded, "Object to the question....this question is referred back to you...as to your guidance on what you appear to be directing commission rates should be."
104. Since Fiala and the firm still had not answered the question, NFA's legal department sent an email to further explain NFA's question.

105. On September 3, 2025, three weeks after NFA made its original request, the firm and Fiala finally answered, "We have not adjusted any rates because of irregularities or other concerns."
106. The exchange described above was not an isolated incident. This type of conduct occurred repeatedly throughout NFA's exam and subsequent investigation.
107. On multiple occasions, NFA reminded the firm and Fiala of their obligation to cooperate, yet the incomplete and untimely responses continued.
108. As result, NFA had to go back to the firm and Fiala numerous times to obtain requested documents and information, some of which NFA did not receive until a month after the original deadlines.
109. By reason of the foregoing acts and omissions, DMFiala and Fiala are charged with violating NFA Compliance Rule 2-5.

COUNT III

VIOLATION OF NFA FINANCIAL REQUIREMENTS SECTION 5: FAILURE TO TIMELY FILE FINANCIAL STATEMENTS AND RELATED NOTICES.

110. The foregoing paragraphs are realleged as if fully stated herein.
111. Since 2020, DMFiala has filed four late financial statements (three AFSs and one UFS) and has been assessed and paid a total of \$43,000 in late fees. DMFiala's history of late filings is shown in the following chart.

Statement Date	Statement Type	Due Date	Received Date	Days Late
11/30/2020	AFS	03/01/2021	03/02/2021	1
05/31/2022	UFS	06/24/2022	06/27/2022	3
11/30/2023	AFS	02/28/2024	04/23/2024	55
11/30/2024	AFS	02/28/2025	03/05/2025	5

112. In addition, Fiala made several inadequate submissions to NFA involving these required filings.
113. To illustrate, the initial November 30, 2023 AFS filing only consisted of a letter requesting a 30-day extension.
114. The firm later submitted an amended AFS on March 12, 2024 from a "new" auditor, who happened to be the firm's bookkeeper and was not properly licensed or considered to be independent.
115. NFA informed DMFiala that since the audit was not performed by an independent certified or licensed public accountant, the AFS would be considered late until the firm submitted a compliant AFS. NFA also informed the firm to file a separate notice regarding the change in auditor.
116. On April 22, 2024, the firm filed a notice regarding the change in auditor and, the following day, submitted an amended AFS, which met NFA requirements. However, both the notice and November 30, 2023 AFS were late.
117. On February 27, 2025, DMFiala submitted a request for a 30-day extension to file its November 30, 2024 AFS, which was due the following day. DMFiala's request indicated the firm needed time to find a new auditor because the current auditor refused to answer the firm's questions.
118. However, NFA denied the request after learning the auditor had refused to provide the final audit report because DMFiala had not paid the auditor for its services.

119. On March 4, 2025, the firm attempted to satisfy its filing requirement by submitting a draft November 30, 2024 AFS, which NFA also rejected.
120. The following day, the firm paid its auditor and submitted an amended AFS, with the late, final audit report.
121. By reason of the foregoing acts and omissions, DMFiala is charged with violating NFA Financial Requirements Section 5.

COUNT IV

VIOLATIONS OF NFA COMPLIANCE RULE 2-10(a): FAILURE TO MAINTAIN ORAL PRE-TRADE COMMUNICATIONS.

122. The foregoing paragraphs are realleged as if fully stated herein.
123. DMFiala indicated in its 2023 Member Questionnaire that it generated more than \$5 million in aggregate gross revenues from its IB activities over the preceding three years and therefore qualified as a "large IB."
124. Accordingly, DMFiala was required to keep oral pre-trade communications for one year.
125. However, the firm indicated in its 2023 Member Questionnaire that it did not keep all of these communications.
126. During the 2023 exam, NFA assessed the extent of DMFiala's recordkeeping problem.
127. The firm could not provide a clear response as to when the firm first met the \$5 million revenue threshold, so NFA reviewed the financial statements DMFiala submitted to NFA over the years and determined the firm first qualified as a large IB around May 2021.

128. However, DMFiala did not begin recording the Kearney, Nebraska branch office's oral communications until Fall 2023, and did not begin recording Hack's oral communications until Spring 2024.
129. By reason of the foregoing acts and omissions, DMFiala is charged with violating NFA Compliance Rule 2-10(a).

COUNT V

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

130. The foregoing paragraphs are realleged as if fully stated herein.
131. As alleged above, there were significant deficiencies across several areas of the firm's operations and an AP (*i.e.*, Hack) who failed to adhere to high standards of commercial honor and just and equitable principles of trade. Each of these deficiencies demonstrates significant supervisory shortcomings by DMFiala and Fiala.
132. The most serious deficiency involved Hack's commission maximizing trade recommendations.
133. The significant commissions that Hack generated for DMFiala compared to other APs should have caused the firm and Fiala to look into Hack's trading activity to ensure nothing improper occurred. Had the firm conducted adequate reviews of Hack's accounts, it might have identified his conduct before NFA did and taken corrective action.
134. Moreover, the firm could not demonstrate that it conducted adequate reviews of any customer accounts.

135. During an interview, Fiala claimed firm personnel reviewed customer accounts for irregular trade patterns (e.g., unusual commodities, position sizes).
136. However, the firm had no documentation of the reviews and no written policies or procedures explaining how or when to conduct the reviews. Moreover, the review process Fiala described had a limited focus and was not reasonably designed to identify common trading schemes (e.g., churning, front running).
137. Regarding the recordkeeping deficiency, the firm's 2022 Member Questionnaire indicated DMFiala had not generated more than \$5 million in aggregate gross revenue over the preceding three years and did not qualify as a large IB.
138. However, as alleged above, DMFiala qualified as a large IB starting around May 2021.
139. When asked about the discrepancy, Fiala indicated the Questionnaire contained "estimates" made "off the top of [his] head" and admitted he did not perform any calculations.
140. However, those "estimates" were clearly inaccurate and illustrate Fiala's indifference to ensuring he and the firm provide complete and accurate information to NFA.
141. Furthermore, DMFiala could not produce certain call recordings for two APs because the application used to capture communications on APs' cell phones did not launch when the APs were located in rural areas, such as a customer's farm.
142. Fiala knew of the issue and acknowledged to NFA that the application was "not good quality."

143. Still, DMFiala did not replace the application until after NFA began questioning Fiala about the firm's failure to keep all required communication records, as represented in the 2023 Member Questionnaire.
144. Fiala is the sole owner and president of DMFiala, and the individual primarily responsible for overseeing the firm's day-to-day operations and supervising the firm's APs, including Hack.
145. However, given the deficiencies identified during NFA's exam and subsequent investigation, it is apparent that Fiala failed to fulfill his supervisory responsibilities effectively. Fiala also is the individual at the firm who delayed responding to NFA's requests and filed late and incomplete financial statements with NFA, which failures add to his supervisory shortcomings.
146. By reason of the foregoing acts and omissions, DMFiala and Fiala 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

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 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.

**NATIONAL FUTURES ASSOCIATION
BUSINESS CONDUCT COMMITTEE**

Dated: March 25, 2026

By: 
Chairperson