

FILED

AUG 19 2016

**NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING**

NFA Case No. 16-BCC-011

1. At all times relevant to this Complaint, Nex Capital was a commodity trading advisor (CTA) Member of NFA located in Los Angeles, California.
2. At all times relevant to this Complaint, Wohl was the sole associated person and principal of Nex Capital, and an NFA Associate.

BACKGROUND

3. Nex Capital was an NFA Member from February 2016 to July 2016. Wohl is eighteen years-old and has never before been associated with any other NFA Member.
4. Prior to Wohl becoming an NFA Member, he operated a firm called Wohl Capital Investment Group LLC (Wohl Capital). As part of its internet surveillance program, NFA found a web-based article about Wohl capital, dated March 2015, and entitled "High School Jock Turned Hedge Fund Trader – Is Regulatory Trouble Ahead," which reported that Wohl Capital had accepted funds from approximately twenty investors for the purpose of trading futures and securities.
5. In April 2016, NFA received promotional material that Nex Capital had provided to a potential customer which included charts that reflected substantial returns for a trading program offered by Nex Capital. These returns appear to be hypothetical, as they were referred to as "backdated" returns.
6. NFA also reviewed Nex Capital's website as well as several social media sites and YouTube videos which promoted Nex Capital and/or Wohl and found them to be unbalanced in their presentation of profit potential and risk of loss. There were also references in these promotional pieces to Wohl managing funds for futures customers prior to him and Nex Capital being registered. After several weeks of discussions with Wohl, Wohl removed the offending material from Nex Capital's website.
7. NFA sent a request for information to all futures commission merchants to determine what business, if any, Nex Capital and/or Wohl were conducting. Through this request, NFA learned of two trading accounts controlled by Wohl – one

in the name of Wohl Capital and one in the name of Michelle Wohl, Wohl's mother. These accounts had a total of approximately \$260,000 in deposits, trading gains of approximately \$36,000, and about \$296,000 in withdrawals. These accounts were open from April through October 2015, before Nex Capital and Wohl were NFA Members.

8. NFA also received a complaint from an individual named David Diedrich (Diedrich) who complained that Wohl refused to pay him back all of his investment and purported trading gains. Diedrich also told NFA that Wohl solicited him to invest with Nex Capital in December 2015, over two months before Nex Capital became registered as a CTA NFA Member.
9. According to Diedrich, he made three deposits to Wohl Capital totaling \$75,000 between March and October 2015, including a \$35,000 wire transfer to Wohl Capital on October 16, 2015, more than a week after Wohl Capital's trading account was closed. On December 14, 2015, Diedrich received a statement from Wohl showing that his investment had a current value of approximately \$89,500, which amounted to a return in excess of 8.3%.
10. Diedrich asked Wohl to return his investment and trading gains. Diedrich made this request several times before he received a check from Wohl in early February 2016 for a little over \$44,000, which was far less than the \$89,500 reflected in the account statement Diedrich received in December 2015 and even significantly less than the \$75,000 that Dietrich had initially invested. Wohl claimed that the difference was due to "losses." However, Wohl Capital's trading account appeared to have made, not lost, money overall.

11. Based on the information obtained from Diedrich, NFA commenced an unannounced exam of Nex Capital on June 20, 2016. As alleged, below, Wohl failed to cooperate with the NFA exam team assigned to the exam and as result the exam team was thwarted in its attempt to conduct an exam of Nex Capital and, thus, was unable to determine if the firm was in compliance with NFA Requirements.

APPLICABLE RULES

12. NFA Compliance Rule 2-5 provides, in pertinent part, that each Member and Associate shall cooperate promptly and fully with NFA in any NFA investigation, inquiry, audit or examination.

COUNT I

VIOLATION OF NFA COMPLIANCE RULE 2-5: FAILURE TO COOPERATE PROMPTLY AND FULLY WITH NFA DURING ITS ATTEMPTED EXAMINATION OF NEX CAPITAL.

13. The allegations contained in paragraphs 1 through 12 are re-alleged as paragraph 13.
14. As alleged above, NFA commenced an exam of Nex Capital on June 20, 2016. On that date, the NFA exam team went to the Los Angeles, California address that Nex Capital had listed as its main office address in NFA's Online Registration System (ORS). When the exam team arrived at this address, they found that it was a residential home. The exam team knocked on the front door of this home but no one answered the door.
15. The exam team then attempted to contact Wohl at the phone numbers he had provided to NFA, but was unsuccessful in reaching him. The exam team also sent an email to Wohl informing him of NFA's exam of Nex Capital and asking him to

contact the exam team by 5:00 p.m. that day. The email also advised Wohl that the exam team planned to return to Nex Capital's main office (i.e., the residential home in Los Angeles) the following day (June 21, 2016) to begin the exam. However, the exam team received no response to its email.

16. On June 21, 2016, the exam team again went to the residential home in Los Angeles where it had gone the day before and again there was no answer. However, the exam team noticed someone at the second floor window who appeared to be taking photos or a video of the exam team. Before leaving this location, one of the members of the exam team left an NFA business card in the mailbox.
17. The exam team again attempted to contact Wohl at the phone numbers he provided to NFA in ORS. At one of these phone numbers, staff was able to leave a voicemail message asking Wohl to contact NFA.
18. The exam team also went to the address Nex Capital listed in ORS as the location of its books and records. However, this address was the address of La Sierra University's Business School, which was closed at the time.
19. The exam team then went to the address that Nex Capital listed in ORS as the location of its business contacts. This address turned out to be a residential home in Corona, California. A boy answered the door at this address and told the exam team that Wohl did not reside there and that he was not sure where Wohl was.
20. Approximately 20 minutes later, one of the exam team members received a telephone call from an individual who identified himself as David Wohl, Jacob Wohl's father. David Wohl threatened legal action against NFA and said that he was going to contact the Los Angeles Police Department to report NFA's

trespassing and harassment. He told the exam team member, to "stay away or else."

21. After the phone call from David Wohl, the exam team sent another e-mail to Jacob Wohl and Nex Capital reminding them of their obligation under NFA Compliance Rule 2-5 to cooperate promptly and fully with NFA in its examination of the firm and warning them that their failure to cooperate could subject them to disciplinary action.
22. Approximately an hour later, NFA received an e-mail reply from David Wohl, who represented that Nex Capital had withdrawn its NFA membership and, therefore, claimed that NFA no longer had any jurisdiction over the firm or Jacob Wohl.
23. David Wohl's e-mail accused NFA of "stalking and harassing Jacob and our family repeatedly, at our homes" and "demanding a meeting that is not going to take place under any circumstances." David Wohl's e-mail also claimed that he had "initiated a formal complaint with LAPD, and they are now investigating this matter" and that he would "also seek a permanent restraining order in court, the violation of which will result in criminal penalties."
24. To the extent that there was any doubt, David Wohl's e-mail made it abundantly clear that Nex Capital and Jacob Wohl had no intention of cooperating with NFA's exam team or submitting to an exam of Nex Capital.
25. By reason of Nex Capital and Jacob Wohl's willful failure to cooperate, NFA was unable to begin, let alone conduct, an exam of Nex Capital. As a consequence, NFA was thwarted in its efforts to determine if Nex Capital was and is in full compliance with NFA Requirements.

26. By reason of the foregoing acts and omissions, Nex Capital and Wohl are charged with violations of NFA Compliance Rule 2-5.

PROCEDURAL REQUIREMENTS

ANSWER

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

300 South Riverside Plaza, Suite 1800
Chicago, Illinois 60606
Attn: Legal Department-Docketing
E-Mail: Docketing@nfa.futures.org
Facsimile: 312-781-1672

Failure to file an Answer 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 the issuance of this Complaint, the Committee 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 \$250,000 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. Respondents in this matter who apply for registration in any new capacity, including as an associated person with a new sponsor, may 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 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: 08/19/2016

By: _____

Chairperson

m:/ham/bcccomplaint/nexcapital