

NATIONAL FUTURES ASSOCIATION
BEFORE THE
BUSINESS CONDUCT COMMITTEE

FILED

FEB - 8 2012

NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

In the Matter of:)	
)	
PEREGRINE FINANCIAL GROUP, INC.)	
(NFA ID #232217),)	
)	
RUSSELL R. WASENDORF, JR.)	
(NFA ID #213806),)	
)	
SUSAN M. O'MEARA)	NFA Case No. 12-BCC-001
(NFA ID #276630),)	
)	
and)	
)	
NOLAN J. SCHIFF)	
(NFA ID #364528),)	
)	
)	
Respondents.)	

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 ("Committee") issues this Complaint against Peregrine Financial Group, Inc. ("PFG"), Russell R. Wasendorf, Jr. ("Wasendorf, Jr."), Susan M. O'Meara ("O'Meara") and Nolan J. Schiff ("Schiff").

ALLEGATIONS

JURISDICTION

1. At all times relevant to this Complaint, PFG was a futures commission merchant

- ("FCM") and Forex Dealer Member NFA Member. As such, PFG 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, PFG guaranteed a number of introducing brokers ("GIBs"), including Clash Financial LLC ("Clash"), Oxford Trading Group, Inc. ("OTG"), California Capital Trading Group LLC ("CCTG") and Patriot Financial Markets LLC ("PFM").
 3. At all times relevant to this Complaint, Wasendorf, Jr. and O'Meara were listed principals and registered associated persons ("APs") of PFG and NFA Associates. As such, Wasendorf, Jr. and O'Meara were and are required to comply with NFA Requirements and are subject to disciplinary proceedings for violations thereof. PFG is liable for violations of NFA Requirements committed by Wasendorf, Jr. and O'Meara in the course of their activities on behalf of PFG.
 4. At all times relevant to this Complaint, Schiff was an AP of PFG and an NFA Associate. As such, he was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. PFG is liable for violations of NFA Requirements committed by Schiff in the course of his activities on behalf of PFG.

BACKGROUND

5. PFG has been an NFA Member registered with the Commodity Futures Trading Commission ("CFTC") since July 1992 and began conducting forex business in September 2005. It is located in Chicago, Illinois. When NFA began an audit of PFG in May 2011, the firm maintained fifteen branch offices located in eight

states. It had seven listed principals and 143 registered APs, of which 125 were registered Forex APs. As of June 14, 2011, PFG had approximately \$477 million in customer segregated funds on hand and approximately \$30 million in customer funds in separate CFTC Regulation 30.7 accounts. PFG also had \$35 million in liability to retail forex customers.

6. PFG conducts much of its retail brokerage business through a network of GIBs. As of May 2011, it had 113 GIBs in various locations throughout the country. PFG's GIB network, together with some independent introducing brokers, introduced customers to PFG.
7. Wasendorf, Jr. has been PFG's president since November 2009. He has been an AP and listed principal of the firm since 1993, and has been a Forex AP since September 2, 2010. Wasendorf, Jr. is ultimately responsible for supervising all phases of PFG's day-to-day activities, including (but not limited to) the Compliance, Forex and Risk Management Departments.
8. O'Meara, who reports directly to Wasendorf, Jr., is PFG's Director of Compliance, as well as the firm's anti-money laundering ("AML") Compliance Officer. O'Meara has been listed as a PFG principal since March 1997, and has been a registered PFG AP since July 2002 and a Forex AP since September 2, 2010. O'Meara's primary function is overseeing PFG's compliance efforts and she monitors all GIB activities for PFG.
9. Schiff is PFG's Director of Managed Foreign Exchange. He has been registered as a PFG AP since December 2005 and a Forex AP as of September 2, 2010.

Schiff is responsible for supervising the operations of PFG's forex business and reports directly to O'Meara and Wasendorf, Jr.

10. NFA's Compliance Department became concerned with the adequacy of PFG's efforts to supervise the activities of its GIBs based, in part, on Complaints this Committee issued against PFG GIBs Clash, OTG, CCTG and PFM during 2010 and 2011. Three of the Complaints alleged that the GIBs routinely recommended trades and trading strategies that maximized commissions without regard for the best interests of their customers, and three of the Complaints alleged the use of deceptive sales solicitations. An additional concern was the fact that PFG used a firm named Investment Reference ("IR") as its third party provider for conducting annual GIB audits. IR is owned and operated by an individual named Dennis Stahr ("Stahr"). Information available on NFA's BASIC system reflects that Stahr has served as an AP and/or principal at four different firms that have been barred from the futures industry for sales practice fraud.
11. NFA reviewed PFG's supervision of its GIBs and concluded that PFG's commitment to supervising its large GIB network was less than optimal and did not meet the supervisory obligations established by NFA's requirements. Overall, NFA concluded that the efforts of PFG, Wasendorf, Jr. and O'Meara to supervise PFG's GIB network were deficient.
12. In addition to PFG's GIB issues, NFA also determined that PFG, Wasendorf, Jr., O'Meara and Schiff failed to diligently supervise activities related to PFG forex customers' accounts in that they failed to ensure the implementation of effective

AML procedures and failed to ensure that trading was not occurring in unfunded forex accounts.

APPLICABLE RULES

13. NFA Compliance Rule 2-9(a) provides that each NFA Member shall diligently supervise its employees and agents in the conduct of their commodity futures activities for or on behalf of the Member. Each Associate who has supervisory duties shall diligently exercise such duties in the conduct of that Associate's commodity futures activities on behalf of the Member.

COUNT I

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

14. The allegations contained in paragraphs 1 through 13 are realleged as paragraph 14.
15. PFG, Wasendorf, Jr. and O'Meara (hereinafter referred to individually or as the "Respondents") were responsible for supervising the activities of PFG's GIBs to ensure that they complied with NFA Requirements. The Complaints issued by NFA against Clash, OTG, CCTG and PFM during 2010 and 2011 provide ample evidence that the Respondents failed to meet their supervisory obligations. Although PFG had the obligation to review trading in its GIBs' customer accounts to detect abusive trading patterns, three of the Complaints alleged that the GIBs routinely recommended trades and trading strategies that maximized commissions without regard for the best interests of their customers, and three of the Complaints alleged the use of deceptive sales solicitations. In addition, one PFG GIB was charged with providing false and misleading information to NFA

concerning individuals who acted as APs by soliciting customers for the GIB, without being registered as APs.

16. The inadequacy of PFG's supervision of its GIBs is further illustrated by the cursory and inadequate nature of PFG's on-site GIB audits, including audits of four of the GIBs that were named in NFA Complaints during 2010 and 2011. In addition, all four of the PFG GIBs were charged with failing to diligently supervise their own operations. Overall, the Respondents' day-to-day monitoring efforts and their implementation of on-site audit procedures were inadequate to provide an appropriate and effective level of supervision over PFG's extensive GIB network.
17. NFA's Board of Directors ("Board") has issued an Interpretive Notice entitled "Commissions, Fees and Other Charges" which, in pertinent part, provides that it is a violation of the high standards of commercial honor and just and equitable principles of trade required of NFA Members to engage in trading practices or recommend transactions or strategies to retail customers that are intended to increase the amount of commissions and fees generated, without serving any economic or other purpose for the customers. The Notice identified large spread positions or deep out-of-the money options as examples of trading approaches that have been used by a few Members in apparent schemes to maximize commissions without regard to the customers' best interests.
18. In addition, in 1992, NFA's Board issued an Interpretive Notice entitled "Compliance Rule 2-9: Supervision of Branch Offices and Guaranteed IBs" which, among other matters, requires guarantor FCMs such as PFG, as part of

their day-to-day oversight of their GIBs, to monitor trading activity in customer accounts introduced by its GIBs. It specifically requires guarantors to review and analyze such trading activity on a regular basis in order to highlight those accounts that may require further scrutiny. The Notice provides that:

There are a number of calculations and comparisons which can be performed to flag accounts for follow-up or further monitoring. For example, significant losses, commission charges or number of trades should be reviewed for inappropriate trading strategies. ... Appropriate supervisory personnel at the remote location should be notified of questionable account activity. Measures should be taken to follow-up, such as reviewing order tickets and trade blotters, discussing the activity with the broker or contacting the customer.

19. The Respondents failed in their duty to diligently supervise PFG GIBs Clash, OTG and CCTG, in part, in that they failed to effectively review the trading strategies and trade recommendations made by those GIBs to determine if they were appropriate trading strategies. Had the Respondents performed the level of review and analysis required by the Board with regard to the trading strategies and trade recommendations used by Clash, OTG and CCTG, they would have found that those GIBs routinely made trade recommendations to their customers that maximized commissions without regard for the customers' best interests and would have been in a position to initiate remedial action.
20. The Respondents failed to supervise Clash in that they failed to detect and/or take effective remedial measures regarding Clash's recommendations to its retail customers that maximized commissions without regard to the best interests of its customers. Clash's recommended strategies included the trading of option and bull call option spreads that required substantial positive market moves in order

to simply cover commissions. However, Clash did not inform its customers as to how much the market would have to move in their favor to recover those expenses. In fact, many of the spread trades that Clash recommended for one customer required significant rates of returns before the customer could break even on commission and fees. In addition, Clash's recommendation of additional bull call spreads and their subsequent commissions could have been avoided had the short strike of the customer's existing position been adjusted upward, which would have provided greater upside potential without incurring the additional commissions associated with the initiation of a new bull call spread. Examples of strategies and trades recommended by Clash that NFA alleged to be in violation of NFA Requirements can be found in the Complaint issued by this Committee against Clash and viewed on NFA's website at: [NFA's Complaint against Clash Financial LLC, et al.](#)

21. The Respondents failed to diligently supervise trading strategies recommended by GIB OTG in that they failed to detect and/or take effective remedial measures regarding OTG's recommendations to its retail customers that routinely maximized commissions without regard to the best interests of the customers. Specifically, when customers of OTG deposited funds into their account or increased available funding through liquidation of existing trades, OTG quickly urged them to make trades that utilized virtually all available funds, which in turn generated more commissions. The recommended trades were often in bull call spreads with very high breakeven points that made it highly unlikely that the customers would ever achieve a profit. In addition, the customers' breakeven

points to overcome commissions routinely exceeded 30%, with some in excess of 40%. Examples of strategies and trades recommended by OTG that NFA alleged to be in violation of NFA Requirements can be found in the Complaint issued by this Committee against OTG and viewed on NFA's website at: [NFA's Complaint against Oxford Trading Group Inc., et al.](#)

22. The Respondents also failed to diligently supervise trading strategies recommended by CCTG in that they failed to detect and/or take effective remedial measures regarding CCTG's recommendations to its retail customers that maximized commissions without regard for the best interests of the customers. Examples of CCTG's trading recommended strategies included: (1) the use of out-of-the-money bull call option spreads that, in at least one situation, resulted in immediate losses as it was impossible for the trade to overcome the high commissions charged; (2) the trading of mini-contracts that multiplied commission expenses when trading standard contracts could have achieved the same economic purpose at substantially lower trade costs, and (3) investing virtually all of a customer's equity immediately when they made a deposit into their account. In addition, the breakeven points on almost all of the trades recommended by CCTG were between 50% and 99%, making it highly unlikely that these trades would be profitable. Examples of strategies and trades recommended by CCTG that NFA alleged to be in violation of NFA Requirements can be found in the Complaint issued by this Committee against CCTG and viewed on NFA's website at: [NFA's Complaint against California Capital Trading Group LLC, et al.](#)

23. The Interpretive Notice entitled "Compliance Rule 2-9: Supervision of Branch Offices and Guaranteed IBs" also requires guarantor FCMs, such as PFG, to review the sales solicitation practices used by its GIBs. This Notice provides that the individuals conducting the on-site review should monitor sales solicitations while at the GIB and that interviews with selected customers should be conducted concerning the solicitation process and the handling of the customer's account. In addition, the individuals at the GIB responsible for supervising sales solicitations should be identified, and the method by which sales solicitations are supervised should be reviewed for adequacy.
24. The Respondents failed to diligently supervise the sales solicitations employed by APs of PFG GIB Clash, in that they failed to detect and/or take effective remedial measures with respect to deceptive and misleading solicitations that included: (1) a failure to explain to customers the impact of commissions generated by the spread trading approach on the likelihood of achieving profits; and (2) a failure to make adequate disclosures of and/or clearly explain how much a position had to move to cover the commissions and fees that Clash's customers paid on any given trade.
25. The Respondents failed to diligently supervise the sales solicitations employed by APs of PFG's GIB OTG, in that they failed to detect and/or take effective remedial measures with respect to deceptive and misleading solicitations that included: (1) a failure to make adequate risk disclosure and/or to disclose the impact of OTG's commission structure on the likelihood of achieving profits; (2) a failure to balance the presentation of profit and loss potential; (3) highlighting

profitable returns that had no relationship to the actual performance experienced by OTG's customers; and (4) suggesting that well-known events and seasonal trends that were already reflected in the market could be exploited for significant profits.

26. The Respondents failed to diligently supervise the sales solicitations employed by APs of PFG's GIB CCTG, in that they failed to detect and/or take effective remedial measures with respect to deceptive and misleading solicitations that included: (1) assuring prospective customers they could be confident of achieving profits in their CCTG introduced accounts, despite the fact that the vast majority of CCTG's customers suffered substantial overall losses; (2) suggesting that CCTG customers would be profitable without providing adequate risk disclosure to these prospective customers, and (3) misrepresenting CCTG had expertise and inside information that was likely to result in substantial profits, but which bore no resemblance to the actual trading results in the accounts of CCTG's customers.
27. The Respondents also failed to diligently supervise PFG GIB PFM to detect and/or prevent PFM's use of unregistered individuals in a capacity that required their registration. Specifically, PFM employed three unregistered individuals who were required to be registered as APs of PFM as they routinely solicited customers on behalf of PFM. A simple review of PFM's cash records would have shown that the firm was paying these individuals. Further information about the activities of PFM that NFA alleged to be in violation of NFA Requirements can be found in the Complaint issued by this Committee against PFM which can be

viewed on NFA's website at: [NFA's Complaint against Patriot Financial Markets LLC, et al.](#)

28. NFA Compliance Rule 2-9(c) requires NFA Members to implement an adequate AML program and to investigate and, where appropriate, report suspicious account activity. This requirement applies to all activity within the Members' purview including activity in forex accounts.
29. Schiff was PFG's Director of Managed Foreign Exchange and an AP of the firm. He had supervisory responsibility to monitor activities related to PFG's forex customer accounts with regard to, among other areas, compliance with PFG's AML program. Schiff reported directly to Wasendorf, Jr. and O'Meara, who was designated as PFG's AML Officer.
30. PFG, Wasendorf, Jr., O'Meara and Schiff failed to diligently supervise activities related to the firm's forex customers' accounts by failing to ensure the implementation of effective AML procedures related to some of those accounts. Specifically, they failed to fully investigate a number of requests from an unregistered forex broker to move significant amounts of money to and from customer accounts.
31. In addition, PFG, Wasendorf, Jr., O'Meara and Schiff failed to diligently supervise activities related to the firm's forex customers' accounts in that they permitted trades to be placed in certain PFG forex customer accounts for which PFG did not collect and maintain the required minimum security deposits.
32. By reason of the foregoing acts and omissions, PFG, Wasendorf, Jr., O'Meara and Schiff 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 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 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 the issuance of 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 \$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 AP with a new sponsor, may be denied registration based on the pendency of this proceeding.

Pursuant to the provisions of 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: 02/08/2012

By: _____

Chairperson

AFFIDAVIT OF SERVICE

I, Nancy Miskovich-Paschen, on oath state that on February 8, 2012, I served copies of the attached Complaint, by sending such copies in the United States mail, first-class delivery and by overnight mail, in envelopes addressed as follows to:

Susan M. O'Meara
6003 Hillcrest Ct.
Downers Grove, IL 60516

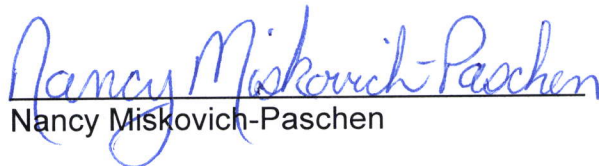
Russell R. Wasendorf, Jr.
215 N. Hager
Barrington, IL 60016

Nolan J. Schiff
727 Western Avenue
Glen Ellyn, IL 60137

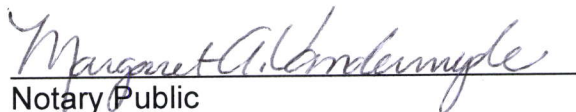
and sending such copies in the United States mail, first-class delivery and by messenger service to:

Peregrine Financial Group, Inc.
311 W. Monroe
Suite 1300
Chicago, IL 60606
Attn: Susan O'Meara
Chief Compliance Officer

Arthur W. Hahn, Esq.
Katten Muchin Rosenman LLP
525 W. Monroe Street
Chicago, IL 60661


Nancy Miskovich-Paschen

Subscribed and sworn to before me
on this 8th day of February 2012


Notary Public

