

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of:

Robbins Futures Inc. and
Joel Robbins,

Respondents.

CFTC Docket No. 03-05

COMPLAINT AND NOTICE OF
HEARING PURSUANT TO SECTIONS
6(c) AND 6(d) OF THE COMMODITY
EXCHANGE ACT, AS AMENDED

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OFFICE OF PROCEEDINGS
SECTION 13(b)
CFTC

The Commodity Futures Trading Commission ("Commission") has received evidence from its staff which tends to show, and the Commission's Division of Enforcement ("Division") alleges, that:

I.

SUMMARY

1. From January 1999 through August 2001 ("the relevant time period"), Robbins Futures Inc. ("RFI"), a registered futures commission merchant ("FCM"), and Joel Robbins ("Robbins"), the President of RFI, failed to diligently supervise RFI's employees' handling of commodity interest accounts carried by RFI and other activities of RFI's employees relating to its business as a Commission registrant, in violation of Commission Regulation 166.3, 17 C.F.R. § 166.3 (2002). Robbins is liable for the violations of RFI as a controlling person under Section 13(b) of the Commodity Exchange Act, as amended ("the Act"), 7 U.S.C. § 13c(b)(2001). The commodity interest accounts included accounts opened by an individual named Andrew Duncan ("Duncan") doing business as the Aurum Society ("the Aurum accounts"), as well as three accounts controlled by Duncan ("the managed accounts"). During the relevant time

period, Duncan engaged in commodity pool fraud while acting as an unregistered commodity pool operator (“CPO”) and an unregistered commodity trading advisor (“CTA”).

2. The Aurum accounts and the managed accounts that RFI carried were funded, at least in part, with deposits that came from individuals and entities other than the accountholder (“third parties”). RFI’s procedures for identifying the source of funds in customer accounts were inadequate and, in fact, RFI failed to detect that funds in the accounts came from third parties. In addition, RFI failed to investigate a suspicious pattern of large deposits followed by prompt withdrawals of funds in the Aurum accounts. Finally, RFI received a series of suspicious phone calls regarding Duncan and his activities that it failed to properly investigate and handle.

3. Robbins is the President of RFI and had effective day-to-day management and control of the firm throughout the relevant time period. Robbins failed to ensure that RFI had adequate compliance procedures and that RFI’s employees were properly trained.

II.

RESPONDENTS

4. Robbins Futures, Inc., is a registered FCM located at President’s Plaza, 8700 W. Bryn Mawr Ste. 760-S, Chicago, Illinois 60631-3507.

5. Joel Robbins, whose address is 1005 Hoffman Lane, Riverwoods, Illinois 60015, is the President of RFI and Robbins Trading Company (“RTC”), a guaranteed introducing broker of RFI. Robbins was registered with the Commission as a floor broker from January 1, 1982 until March 31, 1983. He was registered as AP of Saul

Stone & Co. from October 21, 1983 until January 31, 1984. He has been registered as an AP of RTC since September 27, 1984, and as an AP of RFI since November 3, 1987. He has been listed as a principal of both RFI and RTC since April 1, 1984.

III.

FACTS

6. Between January 1999 and March 2001, Duncan opened four corporate accounts at RFI in the name of Aurum. Aurum was identified in RFI account documents as a Cayman Island corporation and Duncan as the sole shareholder. Duncan deposited over \$2.5 million of customer funds into these accounts and lost approximately \$1.35 million in trading.

7. In addition to the Aurum accounts, Duncan had power of attorney over three managed accounts at RFI during this period. Duncan's managed accounts included: 1) the account of Serge Gauthier ("Gauthier"), of Montreal, Canada, who opened his account on August 31, 2000; 2) the account of Quantum Prosperity Equation Inc. ("Quantum"), a Panamanian corporation for which Gauthier opened an account on November 8, 2000; and 3) the account of Marquis Financial Systems Inc. ("Marquis"), a Panamanian corporation that opened an account on December 20, 2000.

8. Between January 1999 and August 2001, there were at least 19 instances in which a third party wired funds to RFI for benefit of the Aurum accounts. These wires totaled approximately \$2 million. In addition, there were at least 15 instances in which a third party wired funds to RFI for benefit of Duncan's managed accounts. These wires totaled approximately \$430,000.

9. The wire transfers described in paragraph 8 were indicative of pooled funds and suggested that Duncan was operating as an unregistered CPO.

10. RFI accepted the wire transfers described in paragraph 8 without any investigation as to the source of the funds or whether Duncan was operating a commodity pool.

11. RFI failed to detect that the wire transfers described in paragraph 8 were from third parties because it had inadequate procedures to ensure that it knew the source of funds in customer accounts. RFI's procedures were inadequate, in part, because it had no procedure for reviewing wires to ensure that the remitter was the RFI accountholder.

12. RFI's failure to detect that the wire transfers described in paragraph 8 were from third parties enabled Duncan to use the Aurum accounts to further his fraudulent activities.

13. On at least four occasions, RFI received by mail one or more cashier's checks or postal orders for deposit into the Aurum accounts from individuals who were not the accountholder of record. Each mailing included a cover letter from an individual who was not the accountholder instructing RFI to deposit the funds into the Aurum accounts. More specifically, on or about October 18, 2000, the RFI AP handling the Aurum accounts received by mail nine cashier's checks and three postal money orders totaling \$30,965. The checks and money orders were all dated October 13, 2000. The nine checks came from three different banks and seven different locations. Four of the checks came from four different locations of one bank and four other checks came from at least two different locations of a second bank.

14. On or about October 19, 2000, RFI received by mail three more cashier's checks from three different banks totaling \$6,000.

15. On or about January 26, 2001, RFI received by mail three cashier's checks and a money order totaling \$5,000.

16. On or about April 4, 2001, RFI received by mail a cashier's check for \$10,000.

17. The cashier's checks and money orders described in paragraphs 13 through 16 were indicative of pooled funds and suggested that Duncan was operating as an unregistered CPO.

18. RFI's check handling procedures were inadequate to ensure that the checks it received for deposit to a customer's account came from the accountholder. In addition, the firm had no procedure to ensure that incoming mail was reviewed by someone other than the AP for the account. Consequently, RFI accepted and deposited the cashier's checks and money orders described in paragraphs 13 through 16 without any investigation as to the source of the funds.

19. On at least three occasions, RFI received a large deposit of funds for the benefit of the Aurum accounts followed by a prompt withdrawal of funds from those accounts by Duncan. More specifically, on or about August 31, 2000, RFI received a \$200,000 wire transfer from Royal Bank of Scotland for the Aurum accounts. On or about September 5, 2000, Duncan instructed RFI to wire \$210,000 out of RFI to an Aurum account at the Bank of Bermuda ("BOB").

20. On or about December 1, 2000, RFI received a \$120,000 wire transfer from Ronald Walker for the Aurum accounts. On or about December 4, 2000, Duncan instructed RFI to wire \$120,000 out of RFI to an Aurum account at the BOB.

21. On or about January 16, 2001, RFI received a \$500,000 wire transfer from Royal Bank of Scotland for the Aurum accounts. On or about January 25, 2001, Duncan instructed RFI to wire \$360,000 out of RFI to an Aurum account at the BOB.

22. There was no apparent business reason for the deposits and withdrawals described in paragraphs 19 through 21.

23. The deposits and withdrawals described in paragraphs 19 through 21 were suspicious and required investigation.

24. RFI did not investigate the deposits and withdrawals described in paragraphs 19 through 21.

25. Between at least April and August 2001, Ryan Spritz ("Spritz"), RFI's Director of Broker Services and the associated person ("AP") for the Aurum accounts and Duncan's managed accounts, received suspicious phone calls from at least three individuals, Gauthier, Dr. Terry Daunter ("Daunter") and John Doremus ("Doremus"), seeking information about Duncan. Gauthier, Daunter and Doremus directly or indirectly provided information suggesting that Duncan was acting as a CPO and may have been engaged in commodity pool fraud. RFI failed to respond appropriately to these phone calls.

26. Throughout the relevant time period, Robbins was the President of RFI and managed the day-to-day operation of RFI. Robbins' responsibilities included supervising RFI's employees. Robbins was directly responsible for supervising the

employees whose conduct contributed significantly to the compliance failures at RFI concerning the handling of the Aurum accounts and managed accounts. These employees included RFI's Treasurer, Mark Martin; RFI's Compliance Manager, Pamela Spritz; and RFI's Director of Broker Services, Ryan Spritz.

27. RFI had inadequate compliance procedures concerning (1) identification of the sources of funds in client accounts, including procedures relating to the receipt and handling of third-party wires and checks; (2) monitoring accounts for suspicious movement of funds; and (3) the handling of third-party telephone calls.

28. Robbins failed to ensure that RFI had adequate compliance procedures concerning (1) identification of the sources of funds in client accounts, including procedures relating to the receipt and handling of third-party wires and checks; (2) monitoring accounts for suspicious movement of funds; and (3) the handling of third-party telephone calls. Robbins also failed to ensure that RFI's employees were properly trained in relevant compliance procedures.

IV.

VIOLATIONS OF THE ACT AND THE REGULATIONS

VIOLATIONS OF SECTION 166.3 OF THE COMMISSION'S REGULATIONS: FAILURE TO SUPERVISE

29. The allegations contained in paragraphs 1 through 28 are realleged and incorporated herein by reference.

30. From January 1999 through August 2001, RFI failed to supervise its employees' handling of commodity interest accounts carried by RFI and other activities

of its employees related to its business as a Commission registrant, in violation of Commission Regulation 166.3, 17 C.F.R. § 166.3.

31. From January 1999 through August 2001, Robbins failed to supervise RFI's employees handling of commodity interest accounts carried by RFI and other activities of RFI's employees related to its business as a Commission registrant, in violation of Commission Regulation 166.3, 17 C.F.R. § 166.3.

32. Robbins directly or indirectly controlled RFI, and did not act in good faith or knowingly induced, directly or indirectly, the violations of RFI described in paragraph 31 and thereby, pursuant to § 13(b) of the Act, 7 U.S.C. § 13c(b), violated Regulation 166.3.

33. Each individual failure to supervise by RFI and Robbins constituted a distinct and independent violation of Commission Regulation 166.3.

V.

By reason of the foregoing allegations, the Commission deems it necessary and appropriate, pursuant to its responsibilities under the Act, to institute public administrative proceedings to determine whether the allegations set forth in Parts I-IV above are true and, if so, whether an appropriate order should be entered in accordance with Sections 6(c) and 6(d) of the Act, 7 U.S.C. §§ 9 and 15 (2001):

- a) Directing that the Respondents cease and desist from violating the provisions of the Regulations set forth in Parts I-IV of the Complaint;
- b) If the Respondents are registered with the Commission in any capacity, suspending, for a period not to exceed six months, or revoking the Respondents' registration;

- c) Prohibiting the Respondents from trading on or subject to the rules of any “registered entity,” as defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29) (2001), and requiring all registered entities to refuse the Respondents all trading privileges thereon;
- d) Assessing against the Respondents a civil monetary penalty in an amount of not more than the higher of \$110,000 or triple the monetary gain to the Respondents for each violation of the Regulations occurring after November 27, 1996 and on or before October 23, 2000, and assessing against the Respondents a civil monetary penalty in an amount of not more than the higher of \$120,000 or triple the monetary gain to the Respondents for each violation of the Regulations occurring after October 23, 2000.

VI.

WHEREFORE, IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the allegations set forth in Section I-IV above be held before an Administrative Law Judge, in accordance with the Commission’s Rules of Practice under the Act (the “Commission’s Rules”), 17 C.F.R. §§ 10.1 et seq. (2002), at a time and place to be set as provided by Section 10.61 of the Commission’s Rules, 17 C.F.R. § 10.61 (2002), and that all post-hearing procedures shall be conducted pursuant to Sections 10.81 through 10.107 of the Commission’s Rules, 17 C.F.R. §§ 10.81-10.107 (2002).

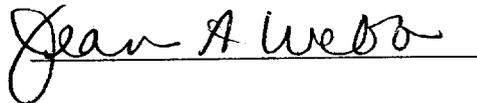
IT IS FURTHER ORDERED that the Respondents shall file an Answer to the allegations contained in this Complaint within twenty (20) days after service, pursuant to Section 10.23 of the Commission’s Rules, 17 C.F.R. § 10.23 (2002), and shall serve two copies of such Answer and of any documents filed in these proceedings upon Rosemary Hollinger, Regional Counsel and David A. Terrell, Senior Trial Attorney, Division of

Enforcement, Commodity Futures Trading Commission, 525 W. Monroe, Chicago, Illinois 60606 or upon such other counsel as may be designated by the Division. If the Respondents fail to file the required Answer, or fail to appear at a hearing after being duly served, Respondents shall be deemed in default and the proceedings may be determined against Respondents upon consideration of the Complaint, the allegations of which shall be deemed to be true.

IT IS FURTHER ORDERED that this Complaint and Notice of Hearing shall be served upon each Respondents personally or by registered or certified mail, pursuant to Section 10.22 of the Commission's Rules, 17 C.F.R. § 10.22 (2002).

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecutorial functions in this or any factually related proceedings will be permitted to participate or advise the decision in this matter except as a witness or counsel in a proceeding held pursuant to notice.

By the Commission.



Jean A. Webb
Secretary to the Commission
Commodity Futures Trading Commission

Date: December 30, 2002