

UNITED STATES OF AMERICA
Before the
U.S. COMMODITY FUTURES TRADING COMMISSION

RECEIVED CFTC



Office of Proceedings
Proceedings Clerk

3:33 pm, Aug 22, 2013

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In the Matter of:))
))
Prestige Capital Advisors, LLC,))
)) CFTC Docket No. SD 13-05
Registrant.))
))
_____))

NOTICE OF INTENT TO REVOKE THE REGISTRATION OF PRESTIGE CAPITAL ADVISORS, LLC

I.

The United States Commodity Futures Trading Commission (“Commission” or “CFTC”) has received information from its staff that tends to show, and the Commission’s Division of Enforcement (“Division”) alleges and is prepared to prove that:

1. Prestige Capital Advisors, LLC (“Prestige”) is a Delaware limited liability company with its principal place of business at 112 South Tryon Street, Suite 900, Charlotte, NC 28227.
2. Prestige has been registered with the National Futures Association (“NFA”) as a Commodity Trading Advisor (“CTA”) since July 2, 2010, pursuant to Section 4m(1) of the Commodity Exchange Act (the “Act”), 7 U.S.C. § 6m(1) (Supp. V 2011).
3. On September 6, 2011, the Commission filed a civil injunctive action against Prestige. *See CFTC v. Prestige Capital Advisors LLC, et al.*, Case No. 3:11-CV-431 (W.D.N.C. filed September 6, 2011). The Commission’s complaint alleged, *inter alia*, that Prestige, a registered CTA, fraudulently solicited and accepted funds from members of the public,

misrepresented the profitability of its trading program, and distributed false account statements to clients, all in violation of anti-fraud provisions of the Act. The CFTC complaint further alleged that during the period from April 2010 through September 2011, Prestige fraudulently solicited over \$4.686 million from clients, of which over \$3 million remain unaccounted. The CFTC complaint also charged Prestige with violations of the Commission's Regulations ("Regulations"). The Commission now seeks to revoke Prestige's registration as a CTA.

4. On January 25, 2013, the United States District Court for the Western District of North Carolina entered an Order of Default Judgment against Prestige ("Default Judgment") and entered a subsequent order on February 22, 2013 (collectively "Orders"). The Orders contained findings of fact and conclusions of law, which found, *inter alia*, that Prestige fraudulently misappropriated client funds, fraudulently solicited prospective clients by misrepresenting past performance, made material false statements to clients including account statements reflecting false information regarding trading profits and account values. The Orders also found that Prestige violated the Commission's Regulations. The Orders found that by engaging in this conduct Prestige violated, *inter alia*, Section 4b(a)(1)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(1)(A)-(C) (Supp. III 2009); Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2006); Section 4o (1) of the Act, 7 U.S.C. § 6o(1) (2006); Regulation 4.20(b)-(c), 17 C.F.R. § 4.20(b)-(c) (2011); and Regulation 33.10, 17 C.F.R. §§ 33.10 (2011). The Orders, in relevant part, permanently enjoin Prestige from:

a. directly or indirectly committing any further fraud in violation of Section 4b(a)(1)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(1)(A)-(C) (Supp. V 2011); Section 4c(b) of the Act, § 6c(b) (2006); Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2006); Regulation 33.10, 17 C.F.R. §§ 33.10 (2012); Regulation 4.20(b)-(c), 17 C.F.R. § 4.20(b)-(c) (2012);

b. applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2012);

c. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2012)), agent or any other officer or employee of any person (as that term is defined in Section 1a of the Act, as amended, 7 U.S.C. § 1a) registered, exempted from registration, or required to be registered with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2012).

5. Pursuant to Section 8a(2)(C) of the Act, 7 U.S.C. § 12a(2)(C) (2006), the Commission may revoke the registration of any person who has been permanently enjoined by order of a court of competent jurisdiction, from certain enumerated activities, including but not limited to (i) acting as a futures commission merchant, introducing broker, floor broker, floor trader, CTA, commodity pool operator (“CPO”), or an Associated Person (“AP”) of any registrant under the Act, or (ii) engaging in or continuing any activity involving fraud or any transaction in or advice concerning contract of sale of a commodity for futures delivery or concerning matters subject to Commission regulation under Section 4c or 19 of the Act, 7 U.S.C. §§ 6c or 23 (Supp. V 2012).

6. Furthermore, pursuant to Section 8a(2)(E) of the Act, 7 U.S.C. § 12a(2)(E) (2006), the Commission may revoke the registration of any person who has been found, in a proceeding brought by the Commission, to have violated the Act by committing fraud or misappropriation within ten years preceding the filing of the registration application or any time thereafter.

7. The facts set forth above constitute valid bases for the Commission to revoke Prestige's registration as a CTA.

II.

8. Pursuant to Regulation 3.60(a), 17 C.F.R. § 3.60(a) (2012), Prestige is hereby notified that a public proceeding shall be conducted in accordance with the provisions of Regulation 3.60, 17 C.F.R. § 3.60 (2012), on the following questions:

a. Whether Prestige is subject to statutory disqualification from registration under Section 8a(2)(C) and (E) of the Act as set forth in Section I above; and

b. If the answer to the above question is affirmative, whether the registration of Prestige as a CTA should be revoked.

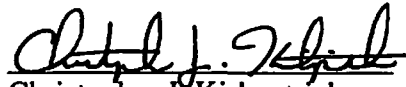
9. Such proceeding shall be held before a Presiding Officer in accordance with Regulations 3.60 and 10.8, 17 C.F.R. § 3.60, 10.8 (2012), and all post-hearing procedures shall be conducted pursuant to Regulations 3.60(i)-(j), 17 C.F.R. § 3.60(i)-(j) (2012).

10. In accordance with the provisions of Regulation 3.60(a)(3), 17 C.F.R. § 3.60(a)(3) (2012), Prestige is entitled to file a response challenging the evidentiary bases of the statutory disqualification or to show cause why, notwithstanding the accuracy of the allegations, its registration should not be revoked. Such response must be filed with the Proceedings Clerk, Office of Proceedings, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, and served upon Eugenia Vroustouris, Senior Trial Attorney, Division of Enforcement, 1155 21st Street, N.W., Washington, DC 20581, within thirty (30) days after the date of service of this Notice upon Prestige, in accordance with the provisions of Regulation 3.60(b), 17 C.F.R. § 3.60(b) (2012). If Prestige fails to file a timely response to this Notice, the allegations set forth herein shall be deemed to be true with respect to

the non-responding registrant, and the presiding officer may issue an Order of Default in accordance with the provisions of Regulation 3.60(g), 17 C.F.R. § 3.60(g) (2012).

III.

11. The Proceedings Clerk shall serve this Notice of Intent to Revoke the Registration of Prestige Capital Advisors, LLC in accordance with Regulation 3.50, 17 C.F.R. § 3.50 (2012) or by any other means permitted under the Act or Regulations thereunder.



Christopher J. Kirkpatrick
Deputy Secretary of the Commission
Commodity Futures Trading Commission

Dated: August 22, 2013