

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

United States Commodity Futures Trading
Commission,

Plaintiff,

vs.

Diego Mariano Rolando a/k/a Roclerman and
ROC d/b/a IA Trading.com Inc.,

Defendant.

Case No.:

3:08-cv-0064 (MRC)

COMPLAINT FOR INJUNCTIVE AND
OTHER EQUITABLE RELIEF AND FOR
CIVIL MONETARY PENALITIES
PURSUANT TO THE COMMODITY
EXCHANGE ACT

U.S. DISTRICT COURT
NEW HAVEN, CT
2008 JAN 15 P 12:46

FILED

I. SUMMARY

1. From September 2005 through the present, defendant Diego Mariano Rolando a/k/a Roclerman and ROC—individually and d/b/a IA Trading.com Inc. (IA Trading) (collectively, Defendant) and using the websites IATrading.com and Roclerman.com—engaged in a fraudulent scheme in which he solicited approximately \$43.8 million from 420 customers residing in the United States and around the world. Defendant provided these customers with fraudulent account statements that misrepresented the value of and trading activity in customers' accounts. Further, Defendant defrauded customers by trading tens of millions of dollars of commodity futures contracts (futures) and options on commodity futures contracts (options) in customer accounts without customer authorization. In addition, to hide his fraud, Defendant provided false customer contact information and false third-party trading advisor names to the commodity firm at which he established customers' accounts. Also, in the course of Defendant's fraudulent scheme, he provided customers with written materials containing material misrepresentations

and omissions about how customers' funds would be invested and about the roles of IA Trading and the firm through which trades were to be made.

2. By virtue of this conduct and the further conduct described herein, Defendant has engaged, is engaging, and/or is about to engage in fraudulent acts and practices that violate Sections 4b(a)(2)(i)-(iii) and 4c(b) of the Commodity Exchange Act, as amended (the Act), 7 U.S.C. §§ 6b(a)(2)(i)-(iii) & 6c(b) (2002), and Sections 33.10(a)-(c) of the United States Commodity Futures Trading Commission's Regulations (Regulations), 17 C.F.R. § 33.10(a)-(c) (2007).

3. Accordingly, the United States Commodity Futures Trading Commission (CFTC) brings this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), to enjoin Defendant's unlawful acts and practices and to compel Defendant's compliance with the Act and Regulations. In addition, the CFTC seeks civil monetary penalties and remedial ancillary relief, including, but not limited to, trading and registration bans, restitution, disgorgement, pre-judgment and post-judgment interest, and such other relief as the Court may deem necessary and appropriate.

4. Unless restrained and enjoined by the Court, Defendant is likely to continue to engage in the acts and practices alleged in this Complaint and in similar acts and practices as more fully described below.

II. JURISDICTION AND VENUE

5. The Court has jurisdiction over this action pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1, which authorizes the CFTC to seek injunctive relief against any person whenever it shall appear to the CFTC that such person has engaged, is engaging, or is about to

engage in any act or practice constituting a violation of the Act or any rule, regulation, or order thereunder.

6. Venue properly lies with the Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e), because Defendant transacted business in the District of Connecticut and certain of the transactions, acts, practices, and courses of business alleged occurred, are occurring, and/or are about to occur within this District.

III. THE PARTIES

7. **Plaintiff United States Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged with the administration and enforcement of the Act, 7 U.S.C. §§ 1 *et. seq.*, and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et. seq.* The CFTC maintains its principal office at Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

8. Upon information and belief, **Defendant Diego Mariano Rolando a/k/a Roclerman and ROC and d/b/a IA Trading**, is a citizen of Buenos Aires, Argentina. Since at least 2005, Defendant—individually and d/b/a IA Trading—has been actively trading in the U.S. financial markets through accounts he held and/or controlled at Interactive Brokers LLC (IB), a futures commission merchant and broker-dealer located in Greenwich, Connecticut. Neither Defendant nor IA Trading has ever been registered with the CFTC. While IA Trading is not incorporated in the United States, IATrading.com lists a Scarsdale, New York address on its domain registration.

IV. FACTS

A. Background.

9. Defendant claims to be a financial advisor who manages a team that supervises trades using a “sophisticated system of hardware and software . . . across . . . IATrading.com Inc.”

10. Since approximately 2005, Defendant has been operating an investment scheme in which he solicits others, through, among other things, the Roclerman.com and IATrading.com websites and a brochure, to open accounts with him to invest in securities. Nowhere do Defendant's solicitation materials mention futures or options. Further, at least some of Defendant's customers are referred to him by third-parties who receive a portion of Defendant's commissions for bringing him customers.

11. Between 2005 and 2007, Defendant or persons working for Defendant opened 420 customer accounts with IB in which customer funds totaling approximately \$43.8 million were deposited. Currently, the equity in these accounts is approximately \$23.4 million. The majority of Defendant's customers live in Argentina; although, he also has customers residing in the United States (including Puerto Rico), England, Italy, Spain, Panama, Paraguay and Venezuela.

12. In furtherance of Defendant's scheme, on or about September 9, 2005, Defendant identified himself as an independent, third-party financial advisor (advisor) to IB and completed an online application for IB to act as an executing and clearing broker for customer accounts managed by Defendant. When submitting this application, Defendant represented to IB that all information he would provide to IB regarding customers would be true and correct and that any documents Defendant would provide to IB to open customer accounts would be reviewed by customers and would be provided in an unaltered and original form. Defendant also certified to IB that he was managing less than \$25 million in assets.

13. Prospective customers either logged onto IATrading.com and filled out account application forms or provided Defendant with account opening documents. It appears that some customers signed a "Trading Authorization Limited to Purchases and Sales of Securities To: IATRADING, Inc." when they completed the account opening documents.

14. After collecting the account opening information, Defendant apparently opened accounts at IB for his customers using IB's online application and associated each customer with an advisor. When opening customers' accounts with IB, Defendant provided IB with false and unauthorized digital signatures for his customers and, for at least some customers, Defendant provided IB with trading authorizations different from what customers provided to Defendant.

15. Customers typically wired funds directly to IB or sent funds to Defendant who forwarded the funds to IB. According to Defendant, customer accounts are not and were not held with any other financial firm. Customers obtained account information and had access to monthly account statements through IATrading.com.

16. Although Defendant's name appears as an advisor on only 30 customer accounts at IB, he actually controlled the trading in all 420 customer accounts. To apparently circumvent an IB policy that permits unregistered advisors to manage only a certain number of accounts and \$25 million in assets, 24 different persons were identified as advisors to IB, and online applications were submitted on behalf of these advisors for IB to act as an executing and clearing broker for the accounts they purportedly managed.

B. Defendant Provided False Account Statements to Customers.

17. Since at least October 2006, Defendant has been providing or has caused to be provided false account statements to customers. These false account statements misrepresent that customer funds are and were invested entirely in securities when, according to IB's records, the majority of customer funds are and were used to trade futures and options.

18. Defendant's false account statements, provided to customers through IATrading.com, also misrepresent the value of customers' accounts.

19. For example, one customer's IA Trading account statement shows a balance of \$256,551.64 as of November 13, 2007 when the actual balance of the customer's account at IB was \$169,082.30.

20. On or about December 4, 2007, Defendant informed IB that account statements issued by IATrading.com show accounts having a collective value of approximately \$40 million. IB's records, however, show these accounts have a collective value of only approximately \$23.4 million.

C. Defendant Engaged in Fraudulent Unauthorized Trading.

21. As part of Defendant's fraudulent scheme, upon information and belief, he never told customers that he was going to trade or had traded customer funds in futures and options. Further, upon information and belief, no customer ever authorized Defendant to trade futures or options. Moreover, it appears that the trading authorizations executed by Defendant's customers never mentioned futures or options.

22. Nevertheless, beginning in September 2005, Defendant began fraudulently trading futures with customer funds. In fact, the majority of trading in the IB accounts held or controlled by Defendant was in futures and options.

D. Defendant Provided False Customer Account Information to IB.

23. As part of Defendant's fraudulent scheme, Defendant caused IB to have false records about customers. As set forth in more detail below, Defendant provided IB with false contact information when opening some customer accounts, changed the mailing addresses for some customer accounts to false addresses, and listed as trading advisors on some accounts individuals whom customers had not authorized to trade their accounts.

24. When opening certain customer accounts at IB, Defendant provided false customer contact information. Further, in some cases, Defendant substantiated customer contact information using falsified documents. For example,

- One customer's account was opened at IB with an application giving an address in Argentina of "Miguel Cane 2786 DTO 2, Haedo Norte, Haedo Norte 1706" and provided an Edesur electric bill to confirm this address. In reality, this customer has never lived at this address and never submitted to Defendant or anyone associated with him a utility bill with this address. Similarly, the email and telephone numbers provided on the IB account opening documents for this customer were false.
- A second customer's account was opened at IB in August 2007 with an application giving a similar address in Argentina of "Benito Juarez 2787, Apartment 2, Haedo Norte, Argentina" and providing a MetroGas bill with the application to confirm this address. In reality, this customer lives in New York and never submitted any information to IA Trading reflecting an address in Argentina. Similarly, the email address provided on the IB account opening documents for this customer was false.

25. During 2007, IB launched a program to make customer accounts more secure. It began mailing customers computer tokens to use when logging into their customer accounts online. Defendant apparently did not want customers receiving these tokens from IB, whereby the customers would be able to examine their true account statements online through IB's website; as a result, beginning no later than August 2007, Defendant began changing his customers' addresses on their IB accounts.

26. For example, on August 6, 2007, Defendant fraudulently changed the mailing address for several IB accounts related to one customer to “Calle Tandil 7344 #3 Mataderos C1440 Argentina.” Upon information and belief, this customer has never lived at or otherwise been associated with this address and never requested that any information on his account be changed.

27. Upon information and belief, Defendant has provided false contact information on at least 200 IB customer accounts. According to IB records, several customers’ contact information was changed to a series of common mailing addresses. It appears that in most instances the common addresses were provided in a slightly altered form to evade IB’s computerized detection system.

28. In addition, when opening certain IB customer accounts, Defendant listed trading advisors whom the customers had not authorized to trade their accounts. Upon information and belief, many customers have advisors listed on their accounts that these customers do not know. Further, it appears that Defendant fraudulently identified to IB the 24 persons listed as advisors on the customer accounts that Defendant controlled. According to Defendant, these “advisors” do not and did not make any trading decisions for these customer accounts and in many cases they are and were unaware that they are listed as advisors on any customer accounts.

E. Defendant Made Material Misrepresentations and Omissions to Customers.

29. Since at least May 2006, Defendant made or caused to be made—through his brochure entitled Roclerman.com, IATrading.com, or otherwise—material misrepresentations and omissions to customers about Defendant’s investment scheme.

30. The Roclerman.com brochure states “[w]e trade only high-rated stocks and indexes.” This statement was untrue. By September 2005, Defendant had begun trading futures in

customer accounts. Further, the substantial majority of trading in the IB accounts held or controlled by Defendant was in futures and options.

31. Defendant also made or caused to be made material misrepresentations about IA Trading to customers. For example,

- The RocIerman.com brochure states that IA Trading is a trading platform and that IB is a clearing house. According to the brochure, “[t]he broker – IATrading.com Inc. – takes charge itself providing the platform of access to the stock market, opening the account in the clearing house and the bank . . . [t]he ‘clearing house’ is: IB, LLC.” These statements were untrue. In the customer transactions at issue, IB served as both the executing and clearing broker. Defendant placed trades in customer accounts through IB and not through any purported IA Trading platform.
- Upon information and belief Defendant represented or caused to be represented to one or more customers that IA Trading was owned by or affiliated with IB. This statement was untrue. IB does not own or have any affiliation with IA Trading.
- Certain IATrading documents indicate that IA Trading is a company with a U.S. address of 1 Pickwick Plaza, Greenwich, Connecticut and a New York facsimile number. Upon information and belief, however, IA Trading is nothing more than a website operated by Defendant. The 1 Pickwick Plaza address is actually IB’s address and IA Trading has never been authorized to use it.

V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT

COUNT I

Violations of § 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6(b)(a)(2)(i)-(iii):
Fraud in Connection with Futures Contracts

32. The allegations set forth in paragraphs 1 through 31 are realleged and incorporated herein by reference.

33. From at least September 2005 and continuing to through the present, Defendant: (i) cheated or defrauded or attempted to cheat or defraud other persons; (ii) willfully made or caused to be made to persons false reports and/or statements and willfully entered or caused to be entered for such persons false records; and (iii) willfully deceived or attempted to deceive other persons, in or in connection with orders to make, or the making of, contracts of sale of commodities for future delivery, made, or to be made, for or on behalf of any other persons, where such contracts for future delivery were or could be used for the purposes set forth in Section 4b(a)(2) of the Act, 7 U.S.C. § 6b(a)(2), all in violation of Sections 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i)-(iii).

34. In the course of Defendant's solicitations, Defendant knowingly made material misrepresentations and omitted material facts including, but not limited to, the misrepresentations and omissions set forth in paragraphs 17 through 31 in violation of Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) & (iii).

35. *As set forth in paragraphs 17 through 28, Defendant also provided or caused to be provided false customer contact and advisor information to IB so that IB would be unable to contact customers and/or inform customers of the true nature of their holdings and account values and provided customers fraudulent account statements that misrepresented the value of*

customers' accounts and customers' holdings in violation of Sections 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i)-(iii).

36. Defendant engaged in the acts and practices described in paragraphs 17 through 31 knowingly or with reckless disregard for the truth.

37. Each fraudulent misrepresentation, omission, report, statement, unauthorized trade, and record made or caused to be made by Defendant, including but not limited to those specifically alleged in paragraphs 17 through 31, is alleged as a separate and distinct violation of Section 4b(a)(2) of the Act, 7 U.S.C. § 6b(a)(2).

COUNT II

Violations of § 4c(b) of the Act, 7 U.S.C. § 6c(b), and Section 33.10(a)-(c) of the Regulations, 17 C.F.R. §33.10(a)-(c): Fraud in the Sale of Options Contracts

38. The allegations set forth in paragraphs 1 through 37 are realleged and incorporated herein by reference.

39. Section 4c(b) of the Act, 7 U.S.C. § 6c(b), makes it unlawful to offer to enter into, enter into, or confirm the execution of, any transaction involving any commodity regulated under the Act which is of the character of, or is commonly known to the trade as, an "option," "privilege," "indemnity," "bid," "offer," "put," "call," "advance guaranty," or "decline guaranty," contrary to any rule, regulation, or order of the CFTC prohibiting any such transaction or allowing any such transaction under such terms and conditions as the CFTC shall prescribe.

40. Sections 33.10(a)-(c) of the Regulations, 17 C.F.R. §§ 33.10(a)-(c), make it unlawful for any person, directly or indirectly, (a) to cheat or defraud or attempt to cheat or defraud any other person; (b) to make or cause to be made to any other person any false report or statement thereof or cause to be entered for any person any false record thereof; (c) to deceive or attempt to deceive any other person by any means whatsoever, in or in connection with an offer to enter

into, the entry into, the confirmation of the execution of, or the maintenance of, any commodity option transaction.

41. By engaging in the foregoing fraudulent acts and practices alleged in the Complaint, from at least September 2005 and continuing to through the present, Defendant (a) cheated or defrauded or attempted to cheat or defraud other persons; (b) willfully made or caused to be made to other persons false reports and/or statements and willfully entered or caused to be entered for such other persons false records; and (c) willfully deceived or attempted to deceive other persons, in or in connection with orders to make, or the making of, contracts of sale of commodity options on futures, made, or to be made, for or on behalf of any other persons, all in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Section 33.10(a)-(c) of the Regulations, 17 C.F.R. §§ 33.10(a)-(c).

42. Each material misrepresentation and omission, report, statement, unauthorized trade, and record made or caused to be made by Defendant, including but not limited to those specifically alleged in paragraphs 17 through 31, is alleged as a separate and distinct violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Sections 33.10(a)-(c) of the Regulations, 17 C.F.R. §§ 33.10 (a)-(c).

VI. RELIEF REQUESTED

WHEREFORE, the CFTC respectfully requests that the Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1, and pursuant to its own equitable powers, enter:

a) An order finding that Defendant violated Sections 4b(a)(2)(i)-(iii) and 4c(b) of the Act and Sections 33.10(a)-(c) of the Regulations;

b) An order of permanent injunctions prohibiting Defendant and any of his agents, servants, employees, assigns, attorneys, and persons in active concert or participation with the Defendant, including any successor thereof:

(i) from engaging in conduct in violation of Sections 4b(a)(2)(i)-(iii) and 4c(b) of the Act, 7 U.S.C. §§ 6b(a)(2)(i)-(iii) & 6c(b), and Sections 33.10(a)-(c) of the Regulations, 17 C.F.R. §§ 33.10(a)-(c);

(ii) from trading of any commodity interest account for himself or on behalf of any other person or entity;

(iii) from soliciting, receiving, or accepting any funds in connection with the purchase or sale of any commodity interest contract;

(iv) from applying for registration or claiming exemption from registration with the CFTC in any capacity, and engaging in any activity requiring such registration or exemption from registration with the CFTC, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2007), or acting as a principal, agent, or any other officer or employee of any person registered, exempted from registration or required to be registered with the CFTC, except as provided for in Regulation 4.14(a)(9); and

(v) from engaging in any business activities related to commodity interest trading;

c) An order directing Defendant, as well as any successors to Defendant, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constitute violations of the Act, as described herein, and pre- and post-judgment interest thereon from the date of such violations;

d) An order directing Defendant to make full restitution to every person or entity whose funds he received or caused another person or entity to receive as a result of acts and practices that constituted violations of the Act, as described herein, and pre- and post-judgment interest thereon from the date of such violations;

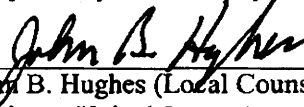
e) An order directing Defendant to make an accounting to the Court of all his assets and liabilities, together with all funds he received from and paid to customers and other persons in connection with transactions or purported transactions alleged in the Complaint, and all disbursements for any purpose whatsoever of funds received from or relating to the transactions alleged in the Complaint, including salaries, commissions, interest, fees, loans, and other disbursements of money and property of any kind from September 2005 to the date of such accounting;

f) An order directing Defendant to pay a civil monetary penalty in the amount of the higher of \$130,000 for each violation of the Act committed or triple the monetary gain to Defendant for each violation of the Act described herein, plus post-judgment interest;

g) An order requiring Defendant to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and

h) Such other and further relief as the Court deems proper.

Respectfully submitted by,



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Dated this 15 day of January, 2008.