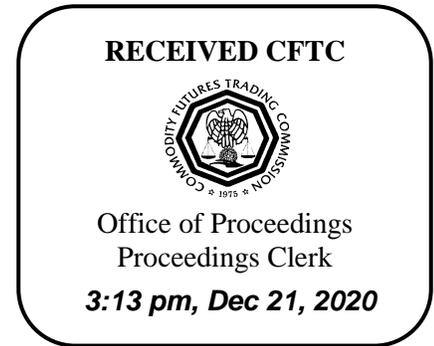




U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Office of Proceedings



Robert L. Copeland,
Complainant,
v.
TD Ameritrade Futures and Forex LLC,
Respondent.
CFTC Dkt. No. 18-R026
Served electronically

Initial Decision & Dismissal Order

Before: Kavita Kumar Puri, Judgment Officer
Commodity Futures Trading Commission
Washington, D.C.

Appearances: Robert L. Copeland, self-represented
Carmack Village, AR
For Complainant
Amanda H. Wright, Esq.
T.D. Ameritrade Futures & Forex, LLC
Omaha, NE
For Respondent

Complainant Robert L. Copeland originally filed his Complaint in May 2018 against TD Ameritrade Futures and Forex LLC (TD Ameritrade) for mismanaging his forex trading, and secretly opening and closing some 80 profitable trading accounts in his name. At the same time TD Ameritrade purportedly created these hidden

accounts, it kept open his three accounts with trading losses but did not allow him to manage them appropriately. Copeland seeks up to \$17 billion (plus legal fees, costs, and interest) in damages caused by this conduct. As discussed throughout this Initial Decision, I find Copeland has failed to prove his claims by a preponderance of the evidence and his Complaint is dismissed with prejudice.

I. Procedural History

Copeland brought this Complaint initially on May 7, 2018. After it became clear that all or the bulk of Copeland's claims were under the jurisdiction of the Securities & Exchange Commission (SEC), this Office forwarded Copeland's Complaints and the attachments to the SEC on July 3, 2018. That same day, this Office terminated Copeland's action pursuant to Commission Regulation 12.14, 17 C.F.R. § 12.14, without prejudice to refile the complaint based on the same set of facts within the two-year statute of limitations.

The SEC apparently ordered no relief on behalf of Copeland, and he reasserted his reparations claims before the Commission. His proceeding was reinstated on March 11, 2020 as a Summary Proceeding, in which "oral examination and testimony" is held at the judgment of the Judgment Officer. See 17 C.F.R. § 12.208. Copeland continued to allege he suffered over \$17 billion in damages, but agreed that his out-of-pocket losses were \$13,991.22 (\$176,015.84 in deposits minus \$162,024.62 in withdrawals).

II. Complaint Allegations And Attempts To Clarify Them

This case was forwarded to my docket for disposition on June 26, 2020. Upon review of the Complaint, I determined that the allegations were vague, confusing, and in some instances incredible on their face. Below is a sample of some of these Complaint allegations:

- “On the following dates 09/29/2016, 09/30.2016 and 10/24 I placed numerous Forex Market Orders. . . . There were so many trades placed from my residence . . . that Issa Issgall an investigator from NFA was ready to fly from Washington DC to Little Rock, AR to speak with me.”
- “I later spoke with [others at the NFA] and a representative from the RU Ministry of Foreign Affairs . . . along with the Consular General of the United Nations in regards to this theft.”
- “TD Ameritrade Futures & Forex, LLC hid or spoofed the positions, told me I had no forex as did NFA.”
- “These FOREX trades I thought sat and ticked until June 19, 2017. Not so, these trades were liquidated a lot sooner and not by me. I was told by the FOREX TEAM in December 2016 that I couldn’t have any more FOREX positions.”
- “I was never given the September, October, November and December 2016 Statements when the Working Orders were purchased. However, the Respondent did relate to SEC that the 2016 dates mentioned above are the correct dates on the purchase of the Working Orders.”
- “As all may plainly see it is all WASHSALES! I would call it mirroring and labeled WASHSALES.”
- “Furthermore, [TD Ameritrade] told [me] I had 83 accounts and a balance of \$74,900,000[, or seventy-nine million dollars] plus at one time.”
- “I would have to ask here, where did the money go and who opened these other eighty accounts?”
- “After TD Ameritrade and I severed relations on 09/08/2017 my account showed over 70,000,000.00 plus that I had left in Open Positions in my Equities account which was linked to my FOREX account. It may have been FOREX? Who know outside TD Ameritrade.”

Compl. at 5-7 (March 11, 2020).

In an attempt to clarify these allegations, on July 7, 2020, I ordered Copeland to “identify any and all forex transactions from the statements TD Ameritrade, produced in its Answer at TDA000001 through TDA000241, to which he objects and identify what illegal conduct is associated with those transactions and the basis for his belief.” Order (July 7, 2020). In that same Order, I “gently reminded [Copeland] to focus on the facts of the alleged wrongdoing with respect to the forex transactions in his account” and informed him that “[m]uddling the facts with irrelevant allegations makes it more difficult for this Office to understand which specific wrongs Complainant is trying to address.” *Id.*

Copeland did not clarify his allegations, despite filing numerous and repetitive emails and pleadings with this Office filed between July 7, 2020 and August 4, 2020. Instead, he requested I issue subpoenas to certain NFA staff in order to make his claims. Email from Copeland to OP (Jul. 1, 2020 at 4:49 pm ET).

I held a status conference on August 13, 2020 to see whether I could better discern his allegations in an interactive, oral setting. None of the information provided during that hearing was by way of sworn testimony; my goal was to get a sense of what the allegations were and whether they were reasonable against the backdrop of the account statements and pleadings by both parties. Even after extensively questioning Copeland and counsel for TD Ameritrade, the allegations by the Complainant remained unclear.

For example, I asked Copeland which specific dates and trades formed the basis of his allegations. Transcript at 8 (Aug. 13, 2020) (“August Tr.”). He responded:

On the evening of **September 29, 2016**, I placed a, I mean an ungodly amount of buys and sells on Forex orders. USD/JPY, I mean they’re all there. . . . I did the calculations and came up with a number of \$17,690,337 and the way I came up with that number was taking the, just a good for instance, 103.03 on USDJPY and then the date that the stuff was liquidated on, starting, January 10, 2017, based on their statements where all of those are just wash sales.

Id. at 8-9 (emphasis added). When I pressed him to tell me where in his account statements he saw these forex trades, he stated “Now I have no trade confirmations. I have no nothing to prove that I placed those trades. . . .” August Tr. at 14-15.

I remained confused by his allegations because the account statements make clear that there were no such trades placed on September 29, 2016. In contrast, according to the account statements and counsel for TD Ameritrade’s representation, the first forex trade on record was placed December 5, 2016. *Id.* at 16-17. According to the documentary evidence, Copeland then trades in January, February and March, but not extensively. *Id.*

When questioned about this disconnect between the record and his allegations, Copeland stated that his account had been spoofed, in an apparent attempt to create a working theory for the missing accounts and transactions. I explained what my understanding of spoofing is, and asked him if that was what he believed occurred. He responded, “No. Hidden positions. . . . I was unable to see the trades on my platform.” He claimed that in order to find the hidden positions, he “called and flew in from Chicago, private investigators at about \$6,000 to have my

house swept for bugs, cameras, microphones, or whatever. They found nothing because it was obvious something was going on.” August Tr. at 19-21. When I asked him why TD Ameritrade would cancel, liquidate, or hide that many trades, Copeland responded “Someone opened 80 accounts without my knowledge, according to their employee . . . and at one time the account was worth \$74,900,000.” August Tr. at 23.

At the hearing’s conclusion, I asked counsel for TD Ameritrade to produce a record of trades from March 2016 through July 2017. I then told Copeland he was to go through that record and identify *the precise dates and trades to which he objected*.

On August 20, 2020, TD Ameritrade produced the requested information. In a responsive pleading filed September 10, 2020, Complainant again made unclear allegations about either trades he made or tried to make in September and October 2016. Complainant Pleading at 1 (Sept. 10, 2020). He said he did not place any forex trades in 2017, and that records of any trades placed then “were untruthful,” based on “false information,” or “where the information was altered.” *Id.* With respect to the “spoof trades” or “wash sales,” he stated: “this will need to be addressed at some point as I have in excess of 500 plus 1099s at IRS and a huge tax liability for 2016 and 2017.” He stated he has \$14,000,000 in taxes due and his U.S. Passport is now restricted. His September 10, 2020 pleading goes on to discuss Federal Judge Kearny of the Eastern District of Arkansas and a pardon by Mike

Huckabee. Copeland again stressed the need to subpoena other investigative agencies.

This final round of discovery revealed that TD Ameritrade suspended Copeland's trading and margin privileges because of concerns regarding his mental health. To that end, I ordered additional discovery from TD Ameritrade on that issue. Order (Oct. 1, 2020). TD Ameritrade timely submitted that evidence; and although I had specifically foreclosed Copeland from submitting further pleadings, on October 20, Copeland requested leave to submit 300 1099Bs from 2016 and 2017 that were newly given to him by the Internal Revenue Service (IRS). I denied that request, but I did allow Copeland to file a statement setting forth exactly what claims these 1099Bs related to and how they supported those claims. Order (Oct. 21, 2020). Copeland filed an overlarge statement saying, essentially, that the 1099Bs suggest "a lot of moneys" were traded in his TD Ameritrade account that were not reflected in his statements.

With the over 200 pages of submissions (including documents, correspondence, signed statements, and oral hearing responses) by Complainant and several clarifying rounds of evidence submitted by TD Ameritrade, the evidentiary record is sufficiently developed, and no testimony is necessary to aid in the decisional process.

III. Factual Summary

A. The Parties

Complainant Robert L. Copeland is a resident of Carmack Village, Arkansas. He opened his first TD Ameritrade accounts 2015, and two more accounts thereafter. Answer at 1 (Jun. 9, 2020). He had three accounts during the relevant time, although only two were active. *Id.* at 2. TD Ameritrade terminated the business relationship with Copeland in September 2017, and closed out his remaining accounts. *Id.* at 4.

Respondent TD Ameritrade is a registered Futures Commission Merchant (FCM), Forex Dealer Member and Forex Firm located in Chicago, Illinois.

<https://www.nfa.futures.org/BasicNet/basic-profile.aspx?nfaid=ifJn16Y4Wlg%3D>.

TD Ameritrade held three accounts for Copeland from 2015 to September 2017, some of which allowed him to trade forex. Answer at 1-4 (Jun. 9, 2020).

B. Fact Findings

Copeland's account was authorized to enter forex trades on February 3, 2016. However, he entered no forex transactions until December 2016, and then made forex trades every month until March 2017. Decl. of Amanda Wright ¶ 6 (August 20, 2020) & Ex. C.

In May and June 2017, Copeland called TD Ameritrade **160 times**. His speech was garbled, disjointed, and confusing in these recordings. Resp. Production (October 23, 2020), Ex. 3 ("Mahoney Decl. (Oct. 23, 2020)," Ex. A (Gulick Notes));

Resp. Production (Oct. 23, 2020), Ex. 1A (“First June 15, 2017 Call Tr.”); Resp. Production (Oct. 23, 2020), Ex. IB (“Second June 15, 2017 Call Tr.”).

For example, on the First June 15 Call, Copeland told the customer service representative, Clint Kalinec, to unwind certain of his positions (though immediately after doing so Copeland asked why Kalinec did it). On that call, Copeland stated the following things:

- If a number is “in brackets, it’s good too” (Kalinec clarified that a bracketed number “means [he’s] losing money”).
- “I just don’t understand what the hell I’m doing.”
- “If I knew what the f*!k I was doing, I’d be you.”

First June 15, 2017 Tr. *passim*. To be clear, Kalinec told Copeland repeatedly that he could only execute trades authorized by Copeland. And Kalinec felt compelled to tell Copeland repeatedly that Copeland should not enter other future trades unless he understood the trades completely. *Id.* Tr. at 19:39-20:39.

On a second call that same day, Copeland called Kalinec again to complain about his account. He stated:

- “This country guy don’t know what he’s doing don’t mean you stick it up his *#!@ but that’s the way this [fudged] up country anyway.”
- “I’m just finalizing to file a hell of a complaint. Sh*t, I’ll throw you in the f*#!#ing ditch with f*#!#ing Pershing.”
- “I mean, I just don’t get it, you know. ‘Cause I need some help and ain’t nobody gonna help me to sh*t in this f*#!#ing country.”
- “Can’t wait for someone to take my passport and burn it along with my good wishes.”

Second June 15, 2017 Call Tr. *passim*.

Shortly after this series of conversations, sometime in June 2017, Copeland reported a complaint against TD Ameritrade to FINRA's Senior Investor Helpline. Mahoney Decl. 1-3 (Oct. 23, 2020). As part of investigating and responding to the FINRA complaint, TD Ameritrade's Regulatory Response team referred the matter to its Senior Investor Oversight (SIO) team. *Id.* Upon review of the Regulatory Response team's notes, Copeland's account activity, and notes of calls between Copeland and TD Ameritrade associates, the SIO team had concerns about Copeland's capacity. *Id.* 4.

Specifically, the SIO team was concerned about Copeland's accusation that TD Ameritrade hacked his account, and that in his "many calls' to TD Ameritrade he "used profanity, issued threats to the firm, broadly alleged misconduct by the U.S. government, accused [TD Ameritrade] of owing him \$70 million, failed to understand some of his own transactions in his account, and made other concerning statements." *Id.* 4. The SIO team decided to remove Copeland's margin privileges and restrict him from trading options and Forex "to reduce risk exposure to Mr. Copeland and [TD Ameritrade]." *Id.* 5.

On June 23, 2017, Daniel Pilmaier from the Retail Risk Management group at TD Ameritrade called Copeland to inform him that his options trading and margin privileges would be removed. *See* Resp. Production (Oct. 23, 2020), Ex. 4 ("June 23, 2017 Call Tr."). Copeland responded with speech that is incomprehensible and has nothing to do with his account. The following is a small

sample of the responses Copeland gave to various questions related to his account and representations from Pilmaier:

- He was “hacked;”
- “[A]pples people [are] pulling key loggers off my sh*t;”
- “[A]ll [his] machines are whacked;”
- “They have to absolutely flash the chip;”
- “And these guys, I guess. . . There, there’s 1,500 people here, okay? And they have a country club. I’m just gonna be perfectly frank with you. This is a meth hub, period. End of story.”
- “They broke in my house. All right. You know, decided to take a lot of money out of my account between, I guess it was August and, uh . . . especially between August and April.”
- “I have no support whatsoever. I never have had. My father was [inaudible] private pilots. My mother [inaudible] Bill Clinton.”
- No hell, no. I’ve got some issues . . . I don’t know how much money left. You guys and . . . I mean, and frankly, I don’t even look at the statements.”
- “Oh yeah, I gotta take Xanax. Hell, I got 11 fractures. Four in my neck and seven in my back. . . they used to have me on 300 milligrams. I don’t take anything like that no more. I take ten 325 Hydrocodones, and I take on milligram of Xanax and blood pressure medicine. . . To me it’s like popcorn.”
- “I’m 84. I got hit for a conspiracy charge in South Florida.”
- “I don’t know wat the government’s gonna do, I don’t know what the government’s not gonna do.”

June 23, 2020 Call Tr. *passim* (emphasis added).

The conversation between Copeland and TD Ameritrade did not end there.

On August 30, 2017, Copeland sent TD Ameritrade and email saying, among other things:

I get the feeling you guys will be kicking yourselves in the [derriere] for years to come. Hey that's just me however I get the feeling that the Gulfstream 550 and two 38 year old strippers/pilots is becoming a reality along with the Chelate in Roderdam is looking very real and that's getting off very light. This just mans opinion of course. That will be at AR SEC when they get there along with all they have already of course. Have fun and enjoy this ride bright boy.

Respondent's Production (Oct. 23, 2020), Ex. 6.

On September 8, 2017, TD Ameritrade wrote to Copeland informing him that it had "made the decision to terminate" the business relationship. Respondent's Production (October 23, 2020), Ex. 6. TD Ameritrade had by then closed Copeland's accounts on September 8, 2017. Copeland received \$339.20 upon closing.

IV. Legal Analysis

Based on these allegations—and interpolating very broadly and generously—it appeared that Copeland was alleging that (1) he placed trades on September 29 & 30, 2016, October 24, 2016, June 16, 2017 and June 19, 2017 but was unable to manage them the way he wanted to; (2) he was foreclosed from trading forex for reasons that were not clear to him; and (3) someone at TD Ameritrade opened 80 additional accounts under his name and created some \$70 to \$79 million worth of value in his account that TD Ameritrade hid from him.

Taking these three allegations in order, it is clear that none of them can be substantiated by a preponderance of the evidence.

First and most importantly, Copeland's account statements make plain that he did not have any forex trades pending on the dates he identifies. Answer (Jun. 9, 2020), Exhibits 1 & 2; Wright Decl. ¶ 6 (Aug. 20, 2020) & Ex. C. Because there are no forex trades on the dates he identified, the first allegation must be dismissed.

Second, with regard to closing Copeland's ability to trade forex, TD Ameritrade very clearly communicated to him why it chose to suspend his trading privileges on June 22-23, 2017. "TD Ameritrade identified multiple interactions which raised suspicions of possible diminished mental capacity and[, after review,] made the decision to remove [Copeland's] margin privileges and restricted the ability to trade complex decisions and Forex." Answer at 4; *see also* Respondent Response to Oct. 1, 2020 Order (Declaration of Matt Mahoney) (Attached as Exhibit 3). TD Ameritrade closed Copeland's accounts in September 2017. TD Ameritrade's reason for doing so was based on a reasonable reading of the evidence before it and within its discretion.

The record makes clear that Copeland had a myriad of competence problems. He did not understand the basics of his transactions or account data. For example, on June 15, 2017, Copeland stated that if a number is "in brackets, it's good too," and the customer service representative had to clarify that a bracketed number "means [he's] losing money." First June 15, 2017 Call Tr. at 4:36-4:52. By further example, Copeland did not understand that to close his options positions he would have to do it in a different trade. *Id.* at 4:56-6:11. Copeland himself stated "I just don't understand what the hell I'm doing." *Id.* at 5:44; *see also, e.g., id.* at 11:25 ("If I knew what the [fudge] I was doing, I'd be you."); Second June 15, 2017 Tr. at 1:37 ("This country guy don't know what he's doing don't mean you stick it up his *#!@ but that's the way this [fudged] up country anyway."). The customer service representative felt compelled to tell Copeland repeatedly that he should not enter

other future trades unless he understood the trades completely. First June 15, 2017 Tr. at 19:39-20:39.

The call transcripts support the concerns regarding Copeland's mental health and capacity. *See, e.g.*, Second June 15, 2017 Call Tr. at 3:37 (threatening to throw the customer service representative in a ditch), 4:28 ("Cause I need some help ain't nobody gonna help me do s*@t in this [fudging] country."), 7:25-8:52 (telling the customer service representative to do things in too profane a manner to include in this Initial Decision). Thus this claim regarding some illegal suspension of forex trading does not hold water. His forex trading and margin privileges were suspended because of legitimate concerns regarding his mental capacity and mental health.

With regard to the some \$70 million in trading profits that was accomplished under Copeland's name through hidden dummy accounts, there is no credible evidence of this anywhere in the record. Although Copeland claims his 1099B forms will substantiate these claims, even if I found those forms credible and based on information submitted to the IRS by a reputable third party, the evidence would be insufficient to support allegations of wrongdoing by TD Ameritrade. Copeland also states that issuing subpoenas to investigators would substantiate his claim, but there is no indication in either the public record or the pleadings that this burdensome third-party discovery would reveal any new information. Moreover, it is simply not credible that TD Ameritrade created some 80 dummy accounts in his

name that had at least \$70 million in value, and then closed those accounts to prohibit Copeland from the benefit of those profits.

CONCLUSION

For these reasons, Copeland's claims are dismissed here with prejudice.

Dated: December 21, 2020

/s/ Kavita Kumar Puri
Kavita Kumar Puri
Judgment Officer