

**UNITED STATES OF AMERICA**  
**Before the**  
**COMMODITY FUTURES TRADING COMMISSION**

**In the Matter of:**

**MICHAEL RADCLIFFE,**  
  
**Respondent.**

**CFTC Docket No. 02-04**

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

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

**I. SUMMARY**

1. As more fully set forth below, from at least 1997 through September 2001, Respondent Michael Radcliffe (“Radcliffe”) has engaged in the fraudulent solicitation of customers in the conduct of his predominantly internet-based commodities advisory business.
2. Using the Internet web site *www.mikeysmethods.com*, Radcliffe offered and sold, among other goods and services, two items: (i) a commodity trading manual called “Mikey's Methods to Money or Madness” (“Mikey's Methods”), which lays out a system for trading commodity futures; and (ii) *Learn to Earn*, a book about commodity futures trading written by Radcliffe.
3. The web site contained claims that Radcliffe made “good profits” from his trading of the “Mikey's Methods” system, and that he made his living through such trading. In fact, however, Radcliffe never made either “good profits” or “a living” from his commodity futures trading.

Over a period of more than three years, between April 1998 and September 2001, he sustained aggregate net losses in his personal trading of just under \$25,000.

4. As a result of his false statements, Radcliffe violated antifraud and other provisions of the Commodity Exchange Act, as amended, 7 U.S.C. §§1, *et seq.* (2001) (the “Act”), as well as provisions of the Commission's Regulations, 17 C.F.R. §§1, *et seq.* (2001) (the “Regulations”), as detailed more fully below.

## II. RESPONDENT

5. **Michael Radcliffe**, who was last known to reside at 1005 Jackson Hollow Road, Mosheim, Tennessee, is the author of the “Mikey’s Methods” trading manual and the *Learn to Earn* book. He also operated the *www.mikeysmethods.com* web site until September 30, 2001. Radcliffe has never been registered with the Commission in any capacity.

## III. FACTUAL BACKGROUND

### A. **Products And Services Sold Through the Internet**

6. During the period 1997 through 1998, Radcliffe wrote and published a futures trading manual containing a trading system called “Mikey's Methods” and the futures trading book *Learn to Earn*.

7. During the same time period, Radcliffe operated a web site called *www.mikeysmethods.com*, from which he offered and sold those written materials. The web site also advertised a service in which Radcliffe provided daily "paper trading" e-mails to subscribers that discuss market direction and provide recommendations for entering and exiting the futures markets while trading a hypothetical, or "paper," portfolio. The site also advertised a subscription "students" secure site that provided additional commodities-related information.

**B. False Claims Concerning Profits**

8. The web site contained false claims that Radcliffe made "good profits" from his trading and that the "Mikey's Methods" system enabled Radcliffe to make his living from the profits of his personal commodity futures trading.

9. The web site also contained statements -- generally made in the first person -- that Radcliffe, using the "Mikey's Methods" trading system, traded commodity futures successfully and made his living that way. The specific misrepresentations have included, but are not limited to:

- "Mikey's Methods helps me trade well enough so that I don't need to work. Isn't that your objective as well?"
- "Not long after I started making good profits in commodity trading several of my friends wanted to learn."
- "Do you have what it takes? It is not whether or not you have a higher education: many successful traders were low income construction laborers and blue collar workers. It's not a matter of money. Some (like myself) have started with as low as \$1,000 initial investment capital."
- "If you want to learn commodity trading from the ground up from someone who became successful with very little capital, this is the course for you."
- "These are the same simple commodity trading strategies that Mikey has been using to trade for a living."
- "I trade commodities for a living."

10. Despite these claims, however, between January 1997 and September 2000, a period during which Radcliffe claimed to have used "Mikey's Methods" as the basis for his personal

futures trading and as a means of earning a living, Radcliffe's personal trading accounts suffered aggregate net losses of approximately \$4,000. Further, between April 1998 and September 2001, Radcliffe suffered aggregate account losses of just under \$25,000 in his personal futures trading. As such, the trading system "Mikey's Methods" did not successfully generate "good profits" or provide any sort of "living" for Radcliffe.

11. Rather than being the successful futures trader that he touted to the public, Radcliffe had a poor futures trading track record and has not been able to earn a living from his own trading. Instead, he appears to have earned his living, in substantial part, by selling books that claim that he earns a living trading a system.

#### **IV. VIOLATIONS OF THE COMMODITY EXCHANGE ACT**

##### **COUNT I**

##### **VIOLATION OF SECTION 4o(1) OF THE ACT, 7 U.S.C. § 6o(1) and COMMISSION REGULATION 4.41 (a), 17 C.F.R. § 4.41(a):**

##### **FRAUD BY A COMMODITY TRADING ADVISOR**

12. Paragraphs 1 through 11 are realleged and incorporated herein by reference.

13. From at least 1997 through September 2001, Radcliffe, while acting as a CTA, violated Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2001), in that, by using the mails or other means or instrumentalities of interstate commerce, he directly or indirectly employed a device, scheme, or artifice to defraud any clients or prospective clients, or engaged in transactions, practices, or a course of business which operated as a fraud or deceit upon clients or prospective clients, including, but not limited to the activities set forth in paragraphs 1 through 11, above.

14. Commission Regulation 4.41(a), 17 C.F.R. § 4.41(a) (2001), makes it unlawful for a CTA, or any principal thereof, to advertise in a manner which: (1) employs any device, scheme

or artifice to defraud any client or prospective client; or (2) involves any transaction, practice or course of business which operates as a fraud or deceit upon any client or any prospective client.

15. From at least 1997 through September 2001, Radcliffe, while acting as a CTA, violated Commission Regulation 4.41(a), 17 C.F.R. § 4.41(a) (2001), in that, by using the mails or other means or instrumentalities of interstate commerce, he advertised in a manner which employed a device, scheme or artifice to defraud clients or prospective clients, or engaged in transactions, practices or a course of business which operated as a fraud or deceit upon clients or prospective clients, including, but not limited to, the activities set forth in paragraphs 1 through 11, above.

16. Each fraudulent misrepresentation or omission made on the web site, in the book, in advertising, or in promotional material, including those specifically alleged herein, is alleged as a separate and distinct violation of Section 4o of the Act, 7 U.S.C. 6o(1) and Commission Regulation 4.41(a), 17 C.F.R § 4.41(a).

## 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 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, 13b and 12a(4) (1994).

Section 6(c) allows the Commission to enter an order (1) prohibiting a respondent from trading on or subject to the rules of any registered entity and requiring all registered entities to refuse such person all privileges thereon for such period as may be specified in the Commission's order; (2) if the respondent is registered with the Commission in any capacity, suspending for a period not to exceed six months, or revoking, the registration of such respondent; (3) assessing

against the respondent a civil penalty of \$110,000 or triple the monetary gain to the respondent for each violation of the Act or Regulations committed before October 23, 2000, and not more than the higher of \$120,000 or triple the monetary gain to the respondent for each violation of the Act or Regulations committed October 23, 2000; and (4) requiring restitution to customers of damages proximately caused by the violations of the respondent.

Section 6(d) allows the Commission to enter an Order directing that the respondent cease and desist from violating the provisions of the Act and Regulations found to have been violated.

## **VI.**

**WHEREFORE, IT IS HEREBY ORDERED** that a public hearing for the purpose of taking evidence and hearing arguments on the allegations set forth above be held before an Administrative Law Judge, in accordance with the Rules of Practice under the Act, 17 C.F.R. §§ 10.1 *et seq.* (2001), at a time and place to be fixed as provided in Section 10.61 of the Rules of Practice, 17 C.F.R. § 10.61 (2001), and that all post-hearing procedures shall be conducted pursuant to Sections 10.81 through 10.107 of the Rules of Practice, 17 C.F.R. §§ 10.81 through 10.107 (2001).

**IT IS FURTHER ORDERED** that the Respondent shall file an Answer to the allegations against said Respondent in the Complaint within twenty (20) days after service, pursuant to Section 10.23 of the Rules of Practice, 17 C.F.R. § 10.23 (2001), and pursuant to Section 10.12(a) of the Rules of Practice, 17 C.F.R. § 10.12(a) (2001), shall serve two copies of such Answer and of any document filed in this proceeding Alan Edelman, Trial Attorney, Commodity Futures Trading Commission, Division of Enforcement, Three Lafayette Centre, 1155 21<sup>st</sup> Street, NW, Washington, DC 20581, or upon such other counsel as designated by the Division. If Respondent fails to file the required Answer or fails to appear at a hearing after

being duly served, Respondent shall be deemed in default, and the proceeding may be determined against Respondent 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 on the Respondent personally or by certified or registered mail forthwith pursuant to Section 10.22 of the Commission's Rules of Practice, 17 C.F.R. § 10.22 (2001).

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

**By the Commission.**

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

**Dated:** January 15, 2002