

NOTICE

On December 16, 1999, the United States Commodity Futures Trading Commission ("CFTC"), a federal agency, filed an administrative complaint against **Carl Dean Dixon**, recently a resident of Davie, Florida, alleging fraud in connection with futures trading. This notice is being published in an attempt to advise Mr. Dixon of the filing and contents of the action, as he is no longer resident at his last known address. A copy of the complaint in *In re Carl Dean Dixon*, Admin. Proceeding No. 00-03, is available from the Office of Proceedings, CFTC, 1155 21st St. NW, Washington, D.C. 20581, Tel. (202) 418-5250.

The complaint alleges that Mr. Dixon, in offering to teach and teaching a commodity futures trading course, committed two counts of commodity fraud by making fraudulent and deceptive statements to, and employing devices and artifices to defraud, students and prospective students, as well as one count of failing to register as a commodity trading advisor, in violation of Sections 4b, 4m(1) and 4o of the Commodity Exchange Act, as amended, 7 U.S.C. §§ 6b, 6m and 6o (1994). Remedies available to the Commission in its action include a cease and desist order, a prohibition against futures trading on or subject to the rules of any contract markets, civil monetary penalties of \$110,000 per violation or triple the monetary gain to Dixon, and restitution to injured customers.

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UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of
CARL DEAN DIXON,
Respondent.

)
) CFTC Docket No. 00 - 03
)
) 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 ("Commission") has received information from its staff which tends to show, and the Commission's Division of Enforcement ("Division") alleges:

I.

SUMMARY

1. Carl Dean Dixon ("Dixon") committed solicitation fraud while acting as an unregistered commodity trading advisor. Between January and December 1998, Dixon offered a Treasury bond futures trading course to prospective students through newspaper advertisements, Internet solicitations and personal contacts, promising to teach a trading methodology that would yield high returns and offering a double-money-back guarantee if students did not earn at least a certain weekly sum after using the methodology for a few weeks. Dixon, however, failed to teach such a system or return the students' tuition. Dixon also solicited students through material misrepresentations that he was an experienced and successful futures trader whose successes resulted in an opulent lifestyle. Dixon, however, was neither experienced nor successful as a commodity trader, and was verging on bankruptcy. Dixon also solicited at least two students

using sham account statements reflecting phony trading profits to reinforce his assertions that he was a profitable, high-volume trader for his own account. Dixon further solicited students by claiming to have taught students to become successful traders using his trading methods, when in fact he had rarely, if ever, taught students to trade successfully. Dixon's solicitations were false, deceptive and misleading because they misstated and failed to disclose facts material to the students' decisions to sign up for his tutoring, all in violation of Sections 4b and 4o of the Act. Dixon also failed to register as a commodity trading advisor in violation of Section 4m(1) of the Act.

II.

RESPONDENT

2. Carl Dean Dixon is an individual whose last known address is 4755 SW 73rd Avenue, Davie, Broward County, Florida 33314. His current residence and business addresses are unknown. He has never been registered with the Commission in any capacity.

III.

FACTS

Dixon's Tutoring Business

3. Between at least January and December 1998 (the "relevant period"), Dixon engaged in the business of tutoring students in techniques of day trading 30-year Treasury bond front month futures contracts. As part of that business, Dixon solicited members of the general public to purchase his tutoring services by means of newspaper advertisements, personal contacts and Internet chat rooms.

4. In his solicitations, Dixon promised to give students one-on-one tutoring tailored to the students' individual needs and interests, and to trade side by side with students in real time

for the first 30 days of trading. He also offered to make himself available to provide continuing advice following completion of the student's actual training.

5. Dixon's newspaper ads made representations about the likelihood of earning profits under his tutelage. For example, one advertisement stated: "Earn \$5-7 K PER WEEK- Tutor you on Daytrading US Tbond Future Contracts."

6. Dixon told prospective students in a letter, and orally, that he had a success rate of teaching nine out of ten students to day trade successfully, which students understood to mean "profitably."

7. As part of his solicitations, Dixon represented to prospective students that he himself was a full-time, highly-experienced and successful commodity futures trader.

8. To back up his oral representations regarding his personal trading successes, Dixon sent to at least one prospective student, and showed to another student in person, two brokers' statements which apparently evidenced successful, high-volume day trading that Dixon identified as his own.

9. Dixon also claimed to have substantial personal wealth that derived from his futures trading, which enabled him to lead a luxurious lifestyle that included a 100-foot yacht named "The T-Bond."

10. Dixon signed up approximately 12 students for his course. He entered into a written agreement with some of those students that contained provisions in which Dixon agreed to "teach [students] to successfully day trade the 30 year Treasury Bond front month Futures [sic] contract within a 30 to 45 day time period ..." and guaranteed to pay students back double their money if he could not teach them successful day trading. In return for those services and

guarantees, the students agreed to pay Dixon tuition of between \$5,000 and \$10,000, plus seven percent of their net profits for a period of two years from the commencement of trading.

11. In February 1998, Dixon told at least one prospective student that he (Dixon) had recently received from one satisfied former student a \$50,000 check that represented Dixon's seven percent share of the student's trading profits as owed to Dixon under the terms of the student's contract.

Dixon's Misrepresentations

12. Dixon's representations as set forth in Paragraphs 4 through 11 above, were materially false and misleading, as detailed below.

13. Contrary to Dixon's representations set forth in Paragraphs 4 through 6 above, Dixon did not trade alongside students during the first 30 days of trading; never earned "\$5-7 K per week" himself by day trading T-bond futures, and never taught any students to do so, either; and did not have a teaching success rate anywhere close to "9 out of 10 students."

14. Contrary to Dixon's representations set forth in Paragraph 7 above, Dixon was not a highly successful or full-time trader, and indeed traded virtually no futures during the relevant period. Two FCMs through which he claimed to trade had never heard of him. Dixon's accounts at four other FCMs reflected almost no trading activity. In short, Dixon had very little trading experience, and what little experience he did have was not successful.

15. Dixon fabricated the account statements described in Paragraph 8 above that he used to solicit students, and the purported trading successes the sham account statements reflected were not, in fact, attributable to trading in Dixon's accounts. At the dates of the purported trading reflected on those phony account statements, Dixon either had no account open

with the FCM named on the top of the statement, or had entered into no transactions resembling those reflected on the account statements he showed to students.

16. Contrary to Dixon's representations set forth in Paragraph 9 above, Dixon was not wealthy and did not live a wealthy lifestyle. Instead, during the relevant period, he was nearly bankrupt, owned no yacht, lived in a house surrounded by trailer parks, and owed large debts. During 1999, his home was sold at a sheriff's auction.

17. Contrary to the representations set forth in Paragraph 10 above, Dixon did not teach students how to trade successfully, and although at least three students asked Dixon to return their tuition, he failed to honor the contractual guarantee and refused to refund any tuition.

18. Contrary to the representations set forth in Paragraph 11 above, on information and belief, no student of Dixon's ever sent Dixon \$50,000 under the contract's "seven percent" provision.

Dixon's Failure to Register as a CTA

19. The manner and extent of Dixon's contact with his students differed according to the students' geographic locations and trading backgrounds. Dixon lived in Florida, and his Florida customers met with Dixon for one-on-one tutoring, augmented by telephone instructions. For out-of-state customers, Dixon relied more heavily on e-mail tutoring and telephone contact. Each student, regardless of location, participated in Internet "chat room" teaching sessions, and received from Dixon a type of instructional videotape called "CAMS" that is computer readable by the recipient only.

20. Dixon inquired into students' financial resources and trading experience, and tailored his lesson content to the ability levels of his students. Dixon promised students with trading experience that his lessons would focus on their specific trading concerns. For example,

Dixon's promise to a Nebraska customer that he would teach him a "timing" method specifically caused the customer to sign up for Dixon's course. For another student with some trading experience, Dixon avoided discussing the market generally, but focused instead on the methodology of trading T-bonds. For students with little or no experience trading futures, Dixon concentrated on more basic instruction in futures trading. Dixon sat with one student and together they made two real-time trades.

21. Dixon has never been registered with the Commission as a commodity trading advisor ("CTA") or in any other capacity, and has not sought any exemption from registration.

IV.

COUNT ONE

Fraud, False Reports and Deceptive Statements in Violation of Section 4b(a) of the Commodity Exchange Act ("Act")

22. The allegations contained in paragraphs 1 through 21 are realleged and incorporated herein by reference.

23. Sections 4b(a)(i) – (iii) of the Act make it unlawful, in or in connection with futures transactions, to cheat or defraud or attempt to cheat or defraud another person, willfully to make false reports or statements to another, or willfully deceive or attempt to deceive any person by any means whatsoever. Dixon violated all three subsections.

24. As set forth more specifically in Paragraphs 1 and 4 - 18 above, Dixon violated Sections 4b(a)(i) and (iii) by making false and deceptive material representations and omissions about at least the following matters: (i) his professional background and experience, including his purported financial success, trading success, trading experience and teaching success, when in fact he was virtually bankrupt, had no successful trading track record, had little trading experience, and had no record of teaching students to trade successfully using his methods; (ii)

his promises to provide a high level of personal service, including trading side-by-side with students for the first 30 days, when in fact he did not provide such service to any student; and (iii) his guarantee that students would either make profits or receive a refund equal to double their tuition if they failed to achieve specific profit levels, when in fact Dixon refused to refund any student's course tuition once students failed to make those profits. Dixon knew that each of these statements was untruthful, or, at a minimum, made the misrepresentations in each case with reckless disregard for their truthfulness.

25. As set forth more specifically in Paragraphs 8 and 15 above, Dixon also violated Section 4b(a)(ii) by giving to students or prospective students at least two forged written account statements that falsely represented that Dixon's trading accounts were actively traded and successful, when in fact Dixon achieved no meaningful trading success and merely created phony documents to create the appearance of success. Dixon knew at the time he made, or caused to be made, those false reports that he had not engaged in the trading reflected on the sham account statements, and also knew that the statements were fabrications. Dixon therefore made the false reports willfully.

26. All Dixon's false and deceptive material representations were made 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 other persons.

COUNT TWO

Fraud and Deceit in Violation of Sections 4o(1)(A) and (B) of the Act

27. The allegations contained in paragraphs 1 through 26 are realleged and incorporated herein by reference.

28. Section 4o(1) of the Act makes it unlawful for a commodity trading advisor to use the mails or any means or instrumentality of interstate commerce, directly or indirectly, to employ any device, scheme or artifice to defraud any client or prospective client, or engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

29. Section 1a(5)(A) of the Act defines a CTA as a person who, for compensation or profit, engages in the business of advising others on the value or advisability of trading in futures or options contracts. As set forth in Paragraphs 1, 3 - 11 and 19 - 20 above, Dixon engaged in the business of advising others, for compensation and profit, about the value and advisability of trading futures by offering to tutor, and tutoring, members of the public to “successfully trade” T-bond futures contracts, charging them tuition and arranging to collect a percentage of students' net profits for providing that advice, and tailoring lesson content to each individual. Dixon's tutoring activities were not “solely incidental” to another occupation; they comprised Dixon’s entire business.

30. In acting as a CTA in soliciting and tutoring students, while using the mails and other means or instrumentalities of interstate commerce, Dixon, as more fully described in Paragraphs 1 and 3 - 21 above, knowingly or with reckless disregard employed schemes and artifices to defraud students and prospective students by means of, among other things, his misrepresentations regarding his trading-related skills, experience and wealth, his teaching abilities, his bogus guarantees of tuition refunds, and the sham account statements he showed to students to reinforce his assertions that he was a profitable, high-volume trader for his own account. In so doing, he violated Section 4o(1)(A) of the Act.

31. Through the same conduct described in Paragraphs 1 and 3 - 21, above, Dixon also engaged in transactions, practices or courses of business which operated as a fraud or deceit upon students and prospective students by means of, among other things, misrepresentations regarding his trading-related skills, experience and wealth, his teaching abilities, bogus guarantees of tuition refunds, and the use of sham account statements to reinforce his assertions that he was a profitable, high-volume trader for his own account. In so doing, he violated Section 4o(1)(B) of the Act.

COUNT THREE

Failure to Register as a CTA in Violation of Section 4m(1) of the Act

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

33. Section 4m(1) of the Act prohibits an unregistered CTA from making use of the mails or any means or instrumentality of interstate commerce in connection with his business as a CTA unless he has both provided advice to no more than 15 persons during the last 12 months and has not held himself out generally to the public as a CTA.

34. Dixon held himself out generally to the public as a CTA. As more specifically described in Paragraphs 3, 5 and 19 above, Dixon solicited students using advertisements in newspapers of general circulation, and both solicited and advised students by means of the internet, telephone calls, faxes, and the mails.

35. Dixon's CTA activities were not subject to any exclusions set forth in Section 4m(1).

36. In acting as a CTA without registering as such or qualifying for an exclusion from registration, Dixon violated Section 4m(1) of the Act.

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) or 6(d) of the Act, 7 U.S.C. §§9, 15, and 13(b) (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 contract market and requiring all contract markets to refuse such person all trading 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 that respondent, (3) assessing against the respondent a civil penalty of not more than the higher of \$100,000 or triple the monetary gain to the respondent for each violation committed prior to November 27, 1996, and not more than the higher of \$110,000 or triple the monetary gain to the respondent for each violation of the Act or Regulations committed after November 27, 1996, 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 in Parts I - IV 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. (1999), 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 (1999), 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 (1999).

IT IS FURTHER ORDERED that each Respondent shall file an Answer to the allegations against them 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 (1999), and pursuant to Section 10.12(a) of the Rules of Practice, 17 C.F.R. §10.12(a) (1999), shall serve two copies of such Answer and of any document filed in this proceeding upon Magdalena Wegner, Trial Attorney, Commodity Futures Trading Commission, Division of Enforcement, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, or upon such other counsel as may be designated by the Division. If any Respondent fails to file the required Answer or fails to appear at a hearing after being duly served, such Respondent shall be deemed in default, and the proceeding may be determined against such Respondent upon consideration of the Complaint, the allegations of which shall be deemed to be true.

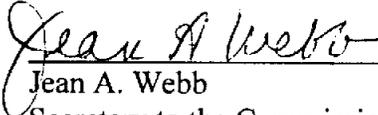
IT IS FURTHER ORDERED that this Complaint and Notice of Hearing shall be served on each Respondent personally or by certified or registered mail forthwith pursuant to Section 10.22 of the Commission's Rules, 17 C.F.R. §10.22 (1999).

IT IS FURTHER ORDERED that if the current business or residence address of any Respondent has not been ascertained at the time service is sought to be made, and no forwarding address is available, additional service shall be made promptly by publishing a notice of the filing of the proceeding and a summary of the complaint, in the form attached hereto, once a week for three consecutive weeks in a newspaper of general circulation where the respondent's

last known business or residence address was located, and also by continuously displaying the complaint on the Commission's Internet web site during the same three-week period.

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 proceeding held pursuant to notice.

By the Commission.



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

Date: December 16, 1999