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In the Matter of NEXT FINANCIAL SERVICES UNLIMITED, INC. and NEW WORLD TRADING, LLC, Registrants.	*	CFTC Docket No. SD 07-03

INITIAL DECISION

Registrants Next Financial Services Unlimited, Inc. ("Next Financial") and New World Trading, LLC ("New World") (collectively, "the registrants") have not responded to the Commission's notice of intent to suspend, revoke or restrict their registrations[1] even though the Proceedings Clerk properly served the

[1] Notice of Intent to Suspend, Revoke or Restrict the Introducing Broker Registrations of Next Financial Services Unlimited, Inc. and New World Trading, LLC, dated July 23, 2007 ("Notice"). As the title of the Notice indicates, Next Financial and New World are registered as introducing brokers. Id., ¶¶2, 4. The Notice sets forth allegations that the registrants are subject to statutory disqualification pursuant to Section 8a(2)(C) and (E) of the Commodity Exchange Act, 7 U.S.C. §12a(2)(C), (E). Id., ¶¶5-11.

pleading.[2] Thus, the registrants are in default.[3] Given these circumstances, the Division of Enforcement's motion for a default judgment[4] only requires us to determine whether the Division has adequately demonstrated the registrants' statutory disqualification pursuant to Section 8a(2)(C) or Section

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[2] This proceeding is conducted pursuant to Rule 3.60, 17 C.F.R. §3.60. Rule 3.50, 17 C.F.R. §3.50, governs service in Rule 3.60 proceedings. Rule 3.50(a) permits service by a number of methods but lists only one method as per se sufficient by stating, "service upon an applicant or registrant will be sufficient if mailed by registered mail or certified mail return receipt requested properly addressed to the applicant or registrant at the address shown on his application or any amendment thereto, and will be complete upon mailing." 17 C.F.R. §3.50(a). On July 23, 2007, the Proceedings Clerk sent the Notice separately to Next Financial and New World by certified mail addressed to 110 East Atlantic Avenue, Suite 310, Delray Beach, Florida 33444. Declaration of Tempest S. Thomas Pursuant to 28 U.S.C. §1746, dated September 28, 2007, ¶2(a)-(c) (attached as Exhibit 3 to Division of Enforcement's Memorandum of Law in Support of its Motion for Entry of Order of Default, Findings of Fact, Conclusions of Law and Revocation of the Registration of Next Financial Services, Inc. and New World Trading, LLC, filed September 28, 2007 ("Division's Memorandum")). This address was listed as that of both firms on their registration applications then on file with the National Futures Association. Certification, dated September 18, 2007, ¶5 (attached as Exhibit 1 to the Division's Memorandum); Certification, dated September 18, 2007, ¶5 (attached as Exhibit 2 to the Division's Memorandum). Consequently, service was proper and completed on July 23rd, and the registrants' responses were due by August 27, 2007. 17 C.F.R. §§3.50(a), 3.60(a)(3), 3.60(k), 10.5; In re Buckwalter, [1992-1994 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶25,609 at 39,893 n.2 (CFTC Dec. 10, 1992).

[3] When they did not respond to the Notice in a timely fashion, Next Financial and New World automatically fell into default. 17 C.F.R. §3.60(a)(4).

[4] Division of Enforcement's Motion for Entry of Order of Default, Findings of Fact, Conclusions of Law and Revocation of the Registration of Next Financial Services Unlimited, Inc. and New World Trading, LLC, filed September 28, 2007. Neither Next Financial nor New World have responded to the Division's motion.

8a(2)(E).[5] If the registrants are disqualified under either provision, then the firms will be found to be conclusively unfit for registration.[6]

Our analysis of the record begins with the Notice and, because the Division's other submissions do not render its relevant claims ill-pled, the pleading forms an adequate basis for our decision. The following allegations

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[5] Rule 10.93, 17 C.F.R. §10.93, governs the disposition of Rule 3.60 default judgment motions. 17 C.F.R. §3.60(g). In determining whether a default judgment is appropriate, we take as true a notice of intent's well-pled allegations of fact, as augmented by any evidence the Division may submit in support of the motion, and draw our own legal conclusions. In re Collins, [2003-2004 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶29,607 at 55,621 (CFTC Nov. 4, 2003).

[6] Generally, the Division must establish the grounds for statutory disqualification by a preponderance of the evidence. 17 C.F.R. §3.60(e). Cf. In re Gath, [1994-1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶26,751 at 44,111 (CFTC Aug. 2, 1996). Once the Division satisfies this requirement, a registrant is deemed presumptively unfit for registration and the burden of proof shifts. 17 C.F.R. §3.60(e)(1)-(2); In re Hirshberg, [1994-1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶26,573 at 43,522 (CFTC Dec. 27, 1995). To overcome the presumption of unfitness arising out of 7 U.S.C. §12a(2), the registrant must show by clear and convincing evidence that it does not pose a substantial threat to the public if permitted to remain registered. 17 C.F.R. §3.60(e)(1); Hirshberg, [1994-1996 Transfer Binder] ¶26,573 at 43,522. To make this showing, a registrant must present "[e]vidence mitigating the seriousness of the wrongdoing underlying the . . . disqualification" and/or evidence that the "registrant has undergone rehabilitation since the time of the wrongdoing underlying the statutory disqualification" (and, in certain cases not here applicable, evidence of adequate supervision). 17 C.F.R. §3.60(f)(1)-(3). See In re Horn, [1986-1987 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶23,731 at 33,889 (CFTC July 21, 1987). A registrant preserves the right to show that its continued licensure would pose no substantial risk to the public despite the existence of one or more statutory disqualifications by stating, in a response to the notice of intent, an intent to make such a showing. 17 C.F.R. §3.60(b)(2)(i). Here, the registrants' default precludes them from introducing evidence of rehabilitation or mitigation. Thus, if we find the registrants to be statutorily disqualified, the resulting presumption of unfitness will be conclusive.

are well-pled and we take them to be true. On June 21, 2004, the Commission filed a complaint in the United States District Court for the Southern District of Florida.[7] The pleading included allegations that, from at least September 2003 to at least June 2004, the registrants fraudulently solicited customers to invest in foreign currency option contracts.[8] On January 12, 2007, the District Court entered a consent order, finding, in relevant part, that Next Financial and New World violated the anti-fraud provisions of 17 C.F.R. §32.9(a) and (c)[9] and permanently enjoining the firms from committing fraud in violation of those

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[7] Notice, ¶5.

[8] Id., ¶6.

[9] Id., ¶8. The regulation states,

> It shall be unlawful for any person directly or indirectly:
>
> (a) To cheat or defraud or attempt to cheat or defraud any other person;
>
> ....
>
> (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, or the confirmation of the execution of, any commodity option transaction.

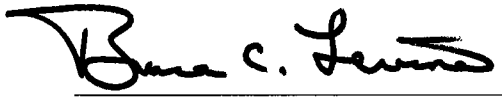
17 C.F.R. §32.9(a), (c). 17 C.F.R §32.9 "appl[ies] to all commodity option transactions," regardless of whether they occur on or subject to the rules of a contract market or any other board of trade. 17 C.F.R. §32.1(a).

regulations.[10] Thus, the Notice's well-pled allegations of fact establish grounds for disqualification under Section 8a(2)(C)[11] and 8a(2)(E).[12]

Because the registrants are statutorily disqualified pursuant to Section 8a(2)(C) and 8a(2)(E), they are unfit for registration.[13] Accordingly, we **GRANT** the Division's motion for a default judgment and **REVOKE** the introducing broker registrations of Next Financial and New World.

IT IS SO ORDERED.[14]

On this 12th day of October, 2007



Bruce C. Levine
Administrative Law Judge

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[10] Notice, ¶9(a).

[11] Section 8a(2)(C) permits this agency to revoke the registration of any person who is permanently enjoined by a court order, "including an order entered pursuant to an agreement of settlement to which the Commission . . . is a party," from "engaging in or continuing any activity where such activity involves . . . fraud." 7 U.S.C. §12a(2)(C).

[12] Section 8a(2)(E) authorizes revocation in cases where the registrant has been found, "within ten years preceding the filing of the application [for registration] or at any time thereafter," in a proceeding "brought by the Commission . . . or by agreement of settlement to which the Commission . . . is a party" to have violated any provision of the Commodity Exchange Act or any regulation thereunder where such violation involves fraud. 7 U.S.C. §12a(2)(E).

[13] See supra note 6.

[14] Any party may appeal this initial decision to the Commission by filing a notice of appeal with the Proceedings Clerk within 18 days of the date upon which this order is served. 17 C.F.R. §§3.60(i)(1), 10.102(a). If no party files a notice of appeal and the Commission chooses not to place the case on its docket for review sua sponte, this initial decision shall automatically become the final decision of the Commission 30 days after service. 17 C.F.R. §3.60(i).