UNITED STATES OF AMERICA
BEFORE THE
COMMODITY FUTURES TRADING COMMISSION

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In the Matter of:	:	**CFTC Docket No.** 09-13
Cadent Financial Services LLC	:	**ORDER INSTITUTING PROCEEDINGS PURSUANT TO SECTIONS 6(c) AND 6(d) OF THE COMMODITY EXCHANGE ACT AND MAKING FINDINGS AND IMPOSING REMEDIAL SANCTIONS**
Respondent	:	

I.

The Commodity Futures Trading Commission (the "Commission") has reason to believe that Cadent Financial Services LLC ("Cadent" or the "Respondent"), a registered futures commission merchant ("FCM"), has violated Commission Regulation ("Regulation") 166.3, 17 C.F.R. § 166.3 (2008). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and they hereby are, instituted to determine whether the Respondent engaged in the violations set forth herein, and to determine whether an order should be issued imposing remedial sanctions.

II.

In anticipation of the institution of an administrative proceeding, the Respondent has submitted an Offer of Settlement ("Offer"), which the Commission has determined to accept. Without admitting or denying any of the findings and conclusions herein, the Respondent acknowledge service of this Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Act and Making Findings and Imposing Remedial Sanctions ("Order").[1]

[1] The Respondent consents to the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party; provided, however, that the Respondent does not consent to the use of this Order or the Offer, or the findings and conclusions in this Order consented to in the Offer, as the sole basis for any other proceeding brought by the Commission, other than in a proceeding in bankruptcy or to enforce the terms of this Order. Nor does the Respondent consent to the use of the Offer or this Order, or the findings and conclusions in the Order consented to in the Offer, by any other party in any other proceeding.

III.

A. Summary

From at least May 15, 2007 until April 1, 2008 (the "relevant period") the Respondent failed to diligently supervise its employees and associated persons ("APs") in their handling of the Idylic Solutions Pty. Ltd ("Idylic") account, which was introduced by New World Holdings LLC ("NWH"), an introducing broker ("IB"). Specifically, funds held by Cadent in the Idylic account were commingled and not properly segregated from those of a different entity with a similar name: Idylic Solutions Ltd. This failure to properly segregate and account for the funds of Idylic took place in connection with both the receipt and deposit of funds, and the transfer and distribution of funds into and from the Idylic account. In each instance, Cadent's APs failed to ensure that third party funds were separately accounted for and not commingled with the funds already in the Idylic account as required by Section 4d(a)(2) of the Commodity Exchange Act ("Act"), as amended, 7 U.S.C. § 4d(a)(2) (2006), and Regulation 1.20, 17 C.F.R. § 1.20 (2008), and Cadent's APs failed to ensure that there was proper authorization from the account holder to either accept funds from a third party or send funds to a third party as required by Regulation 166.2, 17 C.F.R. § 166.2 (2008).

Accordingly, the Respondent violated Regulation 166.3, 17 C.F.R. § 166.3 (2008).

B. Respondent

Cadent Financial Services LLC is registered with the National Futures Association ("NFA") (NFA No.: 0334414) as a FCM, with its principal place of business located at 150 S. Wacker Drive, Suite 1310, Chicago, IL 60606.

C. Facts

Cadent's Failure to Supervise - Commingling of Funds and Transfer of Funds from the Idylic Account without Proper Authorization

The Idylic account was one of a number of accounts controlled by three Australians (the "Idylic Group"), among others. Beginning on or about October 3, 2006, NWH, in its role as an IB, introduced the Idylic account to Cadent, which opened and carried the account. In addition to introducing the Idylic account to Cadent, NWH also actively traded the Idylic account by acting as one of several commodity trading advisors who were authorized by the Idylic Group to trade the account. At its height, the Idylic account alone traded in excess of $11 million.

Beginning on or about May 15, 2007, the Respondent accepted into the Idylic account a series of eleven (11) wire transfers from a third party totaling $6,024,709.78. The account holder, Idylic, is a corporation organized and operated pursuant to the laws of the Commonwealth of Australia. The series of eleven (11) wire transfers were sent by a completely different corporation, Idylic Solutions Ltd., a corporation organized and operated under the laws of the British Virgin Islands.

The specific wire transfers accepted by Cadent and deposited into the Idylic account are as follows:

a. May 15, 2007	$616,885.50;
b. June 12, 2007	$299,318.64;
c. June 13, 2007	$999,980.00;
d. July 9, 2007	$301,612.40;
e. July 31, 2007	$342,829.61;
f. August 16, 2007	$999,980.00;
g. August 30, 2007	$512,606.63;
h. October 3, 2007	$999,975.00;
i. October 12, 2007	$440,967.00;
j. October 15, 2007	$275,024.97;
k. November 13, 2007	$235,529.03.

The account opening documents for the Idylic account reveal that the account holder utilized the "Australian and New Zealand Bank," and the wire transfers from the third party, Idylic Solutions Ltd., were wired from two different banks: "Westpac Bank Corporation", and the "Bank of New Zealand".

The different account holders' names and different transferor banks should have signaled to Cadent employees that funds were being improperly commingled.

The money should never have been accepted by Cadent's account executives and deposited into the Idylic account. Cadent had supervisory procedures in place to prevent such commingling of funds, but Cadent's account executives failed to follow the procedures. Accordingly, Cadent failed to supervise diligently its account executives in the carrying of the Idylic account to avoid commingling of funds.

Beginning on or about May 14, 2007, the Respondent transferred a total of $7,064,553 from the Idylic account in a series of four (4) wire transfers to the same third party, Idylic Solutions Ltd.

The specific wire transfers made by Cadent's APs into the bank account of the third party are as follows:

a. May 14, 2007	$188,553;
b. August 16, 2007	$317,000;
c. November 13, 2007	$359,000;
d. December 6, 2007	$6,200,000.

Cadent's account executives should never have wire transferred these funds from the Idylic account without proper authorization from the account holder. Cadent had supervisory

procedures in place to prevent such conduct by its APs, but the APs acted in contravention of those procedures.[2]

D. Legal Discussion

Regulation 166.3 requires that every Commission registrant (except APs who have no supervisory duties) diligently supervise the handling by its partners, employees and agents of all of its commodity interest accounts and activities relating to its business as a registrant. In order to prove a violation of Regulation 166.3, it must be demonstrated that either: (1) the registrant's supervisory system was generally inadequate; or (2) the registrant failed to perform its supervisory duties diligently. *In re Murlas Commodities*, [1994-1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,485 at 43,161 (CFTC Sept. 1, 1995); *In re Paragon Futures Assoc.*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,266 at 38,850 (CFTC Apr. 1, 1992); *Bunch v. First Commodity Corp. of Boston*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,352 at 39,168-69 (CFTC Aug. 5, 1992).

Under Regulation 166.3, a registrant has a "duty to develop procedures for the detection and deterrence of possible wrongdoing by its agents." *Samson Refining Co. v. Drexel Burnham Lambert, Inc.* [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,596 at 36,566 (CFTC Feb. 16, 1990) (*quoting Lobb v. J.T. McKerr & Co.*, [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,568 at 36,444 (CFTC Dec. 14, 1989)). Thus, "a showing that the registrant lacks an adequate supervisory system [standing alone] can be sufficient" to establish a breach of duty under Regulation 166.3. *In re Collins,* [1996-1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 27,194 at 45,744 (CFTC Dec. 10, 1997). The lack of an adequate supervisory system can be established by showing that the registrant failed to develop proper procedures for the detection of wrongdoing. *CFTC v. Trinity Fin. Group Inc.*, [1996-1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 27,179 at 45,635 *aff'd in relevant part, vacated in part and remanded sub nom. Sidoti v. CFTC*, 178 F.3d 1132 (11th Cir. 1999) (respondent failed to establish and maintain meaningful procedures for deterring and detecting fraud by their employees, and knew of specific incidents of misconduct but failed to take reasonable steps to correct the problems in violation of Commission Regulation 166.3).

As described above, due to deficiencies in Cadent's supervisory system, and the Respondent' failure to properly implement and monitor supervisory procedures, Cadent failed to diligently supervise the handling by its partners, employees and agents of all of its commodity interest accounts and activities relating to its business as a registrant and therefore violated Regulation 166.3. It should be noted that throughout the course of the Commission's investigation, Cadent displayed an exemplary degree of cooperation.

IV.

[2] Ultimately, with the assistance of the Division, together with Cadent's cooperation, these funds were transferred to the Australian Securities and Investments Commission for restitution to Australian customers. The high level of cooperation demonstrated by Cadent throughout the Division's investigation is recognized by the Commission.

FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that Cadent violated Regulation 166.3, 17 C.F.R. § 166.3 (2008).

V.

OFFER OF SETTLEMENT

The Respondent has submitted an Offer in which it acknowledges service of this Order and admits the jurisdiction of the Commission with respect to the matters set forth in this Order and waives: 1) the service and filing of a complaint and notice of hearing; 2) a hearing and all post-hearing procedures; 3) judicial review by any court; 4) any and all objections to the participation of any member of the Commission's staff in consideration of the Offer; 5) any and all claims that it may possess under the Equal Access to Justice Act (EAJA), 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1, *et seq.* (2008), relating to, or arising from this action; 6) any and all claims that it may possess under the Small Business Regulatory Enforcement Fairness Act, Pub. L. No. 104-121, §§ 231-232, 110 Stat. 857 (1996), as amended by Pub. L. No. 110-28, 121 Stat. 112 (2007), relating to, or arising from, this proceeding; and 7) any claim of double jeopardy based upon the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief.

The Respondent stipulates that the record basis on which this Order is entered consists of this Order and the findings in this Order consented to in its Offer. The Respondent consents to the Commission's issuance of this Order, which makes findings as set forth herein and orders that the Respondent: 1) cease and desist from violating Regulation 166.3, 17 C.F.R. §166.3 (2008); 2) pay a civil monetary penalty in the amount of $120,000; and 3) comply with the undertakings set forth herein.

Upon consideration, the Commission has determined to accept the Respondent' Offer.

VI.

ORDER

Accordingly, **IT IS HEREBY ORDERED THAT:**

A. The Respondent shall cease and desist from violating Regulation 166.3, 17 C.F.R § 166.3 (2008);

B. The Respondent shall pay a civil monetary penalty in the amount of $120,000, within ten (10) days of the date of entry of this Order. The Respondent shall pay the civil monetary penalty by making electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made by other than electronic

funds transfer, the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Marie Bateman – AMZ-300
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone 405-954-6569

If payment by electronic transfer is chosen, the Respondent shall contact Marie Bateman or her successor at the above address to receive payment instructions and shall fully comply with those instructions. The Respondent shall accompany payment of the penalty with a cover letter that identifies the Respondent and the name and docket number of this proceeding. The Respondent shall simultaneously transmit copies of the cover letter and the form of payment to: (1) the Director, Division of Enforcement, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581; and (2) the Chief, Office of Cooperative Enforcement, Division of Enforcement, Commodity Futures Trading Commission at the same address. In accordance with Section 6(e)(2) of the Act, 7 U.S.C. § 9a(2)(2006), if this amount is not paid in full within fifteen (15) days of the due date, the Respondent shall be prohibited automatically from the privileges of all registered entities, and, if registered with the Commission, such registration shall be suspended automatically until it has shown to the satisfaction of the Commission that payment of the full amount of the penalty with interest thereon to the date of the payment has been made.

C. Cadent and its successors and assigns shall immediately comply with the following undertakings set forth in its Offer:

1) Cadent shall update, monitor, and enforce its supervisory system for overseeing its APs', employees' and agents' sales solicitations and maintenance of customer accounts at Cadent, to determine, document, and monitor:

a. the actual source of the funds being used to open any account and the proper designation of any such account;

b. the status of any person trading on behalf of another person or entity, including, but not limited to, all registration records and any and all Notice(s) of Exemption; such information shall be maintained in a readily accessible medium and promptly retrievable to determine whether any trade is being properly entered by the third party on behalf of the account holder; and

c. whether the third party has discretion to trade an account holder's account, the scope of discretion, and the presence of proper documentation in Cadent's records of such authorization; such information shall be

maintained in a readily accessible medium and promptly retrievable to determine whether any trade is being properly entered by the third party on behalf of the account holder;

2) Cadent shall incorporate such systems described in Section VI.C.1, above, into Cadent's compliance structure and include them in Cadent's compliance manual; further, initial and ongoing training shall be given to all Cadent APs, compliance staff, and other employees and agents in the order solicitation, receipt, execution and recordation processes concerning these systems;

3) In addition to such readily accessible systems, Cadent must maintain and review on a sufficient basis, as part of its recordkeeping responsibilities, a hard copy of all registration information, including any and all Notice(s) of Exemption, Letters of Direction and Powers of Attorney, with account numbers clearly noted thereon, and organized by the identity of the persons or entities who control such accounts;

4) All Cadent APs, compliance staff, and other employees and agents in the order solicitation, receipt, execution and recordation processes, shall receive initial and ongoing training and copies of all NFA Interpretative Notices and other directives; and

5) Neither Cadent, nor any of its successors, assigns, employees, agents, attorneys or representatives shall take any action or make any public statement denying, directly or indirectly, any finding in this Order, or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect Cadent's (i) testimonial obligations; or (ii) right to take appropriate legal positions in other proceedings to which the Commission is not a party. Cadent and its successors and assigns shall undertake all steps necessary to ensure that all of its employees, agents, attorneys or representatives under its authority and/or actual or constructive control understand and comply with this undertaking.

The provisions of this Order shall be effective on this date.

By the Commission:

Dated: Sep. 30, 2009

David A. Stawick

David A. Stawick
Secretary of the Commission
Commodity Futures Trading Commission