

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
CASE No. ATLANTA DIVISION

FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

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JAMES N. HATTEN, CLERK
By:  Deputy Clerk

Commodity Futures Trading
Commission,

Plaintiff,

v.

Saxon Financial Services, Inc.

Defendant.

1 07 - CV - 2436

COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE
RELIEF AND FOR PENALTIES UNDER THE COMMODITY
EXCHANGE ACT, AS AMENDED, 7 U.S.C. §§ 1 et seq.

I. SUMMARY

The Commodity Futures Trading Commission ("Commission" or "CFTC"), by its attorneys, alleges as follows:

1. From at least July 2006 and continuing through the present (the "relevant time"), defendant Saxon Financial Services, Inc. ("Saxon Financial") also doing business as Saxon Consultants, Ltd. solicited and continues to solicit persons to engage in the speculative trading of options contracts, including unleaded gasoline options.

2. Since approximately May 2007, Saxon Financial has been acting as an introducing entity purportedly soliciting customers to trade off-exchange commodity options with Merchant Capital Markets, S.A. (“MerchantMarx”), a foreign entity purportedly located in Geneva, Switzerland.

3. Prior to May 2007, Saxon Financial acted as an introducing entity soliciting customers to trade off-exchange commodity options with GIFG (Suisse) SA (“GIFG”), an entity purportedly located in Geneva Switzerland that is related to Geneva International Financial Group (UK) Limited, an entity located in Great Britain.

4. During the relevant time, Saxon Financial, through its brokers, used misleading statements in conjunction with aggressive, high-pressured telemarketing sales tactics to fraudulently solicit retail customers to engage in off-exchange commodity option transactions with either GIFG or MerchantMarx.

5. Despite statements by Saxon Financial brokers that customers were likely to profit, Saxon Financial customers typically lose most if not all of the funds that they invest through the firm.

6. Defendant Saxon Financial violated Section 4c(b) of the Commodity Exchange Act, as amended (“Act”), 7 U.S.C. §6c(b), and

Commission Regulations 32.9(a) and (c), 17 C.F.R. § 32.9(a) and (c) (2007), by engaging in fraudulent solicitations in connection with an offer to enter into, entering into or confirming the execution of any transaction involving commodity options.

7. Unless enjoined by this Court, Defendant is likely to continue to engage in the acts and practices alleged in this Complaint and similar acts and practices as more fully described below.

8. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), Plaintiff Commission brings this action to enjoin the unlawful acts and practices of Defendant and to compel its compliance with the provisions of the Act and Regulations thereunder, as well as for civil monetary penalties, permanent injunctive relief and other relief, including restitution and disgorgement.

II. JURISDICTION AND VENUE

9. The Act establishes a comprehensive system for regulating the purchase and sale of commodity futures and commodity options. 7 U.S.C. § 1 *et seq.* (2002).

10. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear that such

person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order thereunder.

11. Some of the commodity options that Saxon Financial solicits customers to enter into are off-exchange options in foreign currencies. Under Sections 2(c)(2)(B)(i) and (ii) and 2(c)(2)(C) of the Act, 7 U.S.C. §§ 2(c)(2)(B)(i) and (ii) and 2(c)(2)(C) (2002), the Commission has jurisdiction over foreign currency (“forex”) transactions if: (1) the transactions at issue are futures or options contracts; (2) the futures or options contracts were offered to, or entered into with, a person that is not an eligible contract participant, *i.e.*, retail customers; and (3) if the counterparty to the transaction is an improper counterparty, or if the counterparty is a futures commission merchant (“FCM”) or a certain FCM affiliate and fraud or manipulation is alleged in the transaction.

12. In this case, Saxon Financial is at times offering forex options contracts through oral solicitations. Thus, with regard to those forex options, the first element to establish jurisdiction is satisfied.

13. As to the second element, Section 1a(12)(A)(xi) of the Act, 7 U.S.C. § 1a(12)(A)(xi) (2002), defines an eligible contract participant as either (1) an individual who has total assets in excess of ten million dollars

(\$10,000,000) or (2) an individual who has total assets in excess of five million dollars (\$5,000,000) and who enters the transaction to manage the risk associated with the asset he owns or liability incurred. Numerous Saxon Financial customers have total assets far less than these amounts set forth in Section 1a(12)(A)(xi) of the Act, and such customers are therefore not eligible contract participants.

14. Section 2(c)(2)(B)(ii) of the Act identifies regulated entities that are proper counterparties to forex option transactions with retail customers. With regard to any off-exchange forex options transactions offered to, or entered into by, Saxon Financial customers during the relevant time period, neither MerchantMarx nor GIFG were proper counterparties under the Act.

15. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2002), in that the Defendant is found in this district and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this district.

III. THE PARTIES

16. Plaintiff **Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged with responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.*

(2002), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2002).

17. Defendant **Saxon Financial Services, Inc.** is an entity incorporated in the State of Georgia. Its initial business address, according to Georgia corporate records, is 6078 Farmwood Way, Mabelton, GA 30126, and it has an office located at 3475 Lenox Road, N.E., Suite 980, Atlanta Georgia 30326. Saxon Financial claims to be operating as “Saxon Consultants, Ltd.” in Tortola, British Virgin Islands.

IV. FACTS

18. Saxon Financial, by and through its brokers, fraudulently solicits retail customers in Canada and Europe to open accounts to trade off-exchange commodity options.

19. In an initial phase of Saxon Financial’s operations, customers opened off-exchange commodity option accounts with GIFG. Since approximately March 2007, Saxon Financial customers opened an off-exchange commodity option account with MerchantMarx. Saxon Financial represents MerchantMarx to be an independent clearing firm located in Switzerland. The address of record for MerchantMarx is Rue du Rhône 14, 1204 Geneva, Switzerland.

20. During telephone solicitations, Saxon Financial brokers, make false and materially misleading representations regarding the profit potential and risk of loss of trading commodity options through Saxon Financial to customers and prospective customers. For example, in July 2007, Saxon Financial broker Justin Praamsma told a Canadian regulatory investigator who was posing as a prospective customer the following:

- (i.) if he bought unleaded gasoline options as recommended by Saxon Financial, he could expect to see a 300% return in three months;
- (ii.) if he invested \$10,000 with Saxon Financial, that he could expect a profit of over \$75,000 over the next 90 days;
- (iii.) Saxon Financial “makes a lot of money”;
- (iv.) Saxon Financial uses “stop loss” orders that prevent losses of more than a minor portion of a customer’s investment;
- (v.) the price of unleaded gasoline has to go up in the next three months because of constantly increasing demand for gasoline;
- (vi.) each option purchased will “control” 42,000 gallons of unleaded gasoline, and for each penny that gasoline increases in prices, each option will increase in value by \$420;
- (vii.) customer funds will be held in a “legitimate bank” in the customer’s own name, and the customer will have “total control” over their account from their home, and will be able to “close their account” from his home without having to speak to a Saxon Financial broker; and
- (viii.) his firm was registered “overseas.”

21. In fact, Saxon Financial is not “registered overseas,” and customer funds are not held in a bank account in the customer’s name.

22. Saxon Financial customers also do not have any control over their accounts after they have opened an account. Contrary to these representations of “total control,” except for frequent demands by Saxon Financial brokers to invest additional funds, Saxon Financial repeatedly ignores telephone calls from customers, and fails to comply with verbal and written requests from customers to close an account and return all remaining customer funds.

23. Contrary to the predictions by Saxon Financial brokers of substantial profits and limited risk, the vast majority of customers who trade commodity options through Saxon Financial close their accounts at a loss, and most customers lose the vast majority of the funds that they invested.

24. In June 2007, Saxon Financial broker Conrad Praamsma told a customer in New Brunswick, Canada that if he bought 15 to 20 commodity options he was guaranteed to double his money.

25. In approximately March 2007, Saxon Financial broker Terry Strascha told an investor located in Alberta, Canada that he could make 300%-400% on his investment, that the investment was “sure,” and that he “could not lose.”

26. The representations by the Saxon Financial brokers described above in paragraphs 18-25 regarding the projected price movements for

commodity options and regarding the relevance of well-known market information such as seasonal demand are false and materially misleading. Commodity option prices do not move in tandem with the price for the corresponding physical commodity, and well-known market factors such as seasonal demand are already factored into futures and options prices by commodity option traders, and there is little if any potential to profit when trading out-of-the-money commodity options, such as those touted by Saxon Financial brokers, based on such well-known information.

27. The Saxon Financial brokers who make the material misrepresentations described in paragraphs 18 through 25 above know that such statements are false or have no reasonable basis in fact, or they act with extreme or severe recklessness in making such material misrepresentations, because the inherently misleading nature of such misrepresentations is so obvious that they must be aware that the misrepresentations are false or have no basis in fact.

28. From approximately July 2006 through March 2007, Saxon Financial brokers pressured customers to wire or send their funds to GIFG and to return their signed account opening documents almost immediately, insisting that the customer did not want to miss out on the huge profits predicted by Saxon Financial brokers. Customers are instructed to send their

money via wire transfer directly to a GIFG bank account at Commerzbank AG, in Frankfurt, Germany.

29. Since approximately March 2007, once customers decide to invest, Saxon Financial brokers pressure them to wire or send their funds to MerchantMarx and to return their signed account opening documents almost immediately, insisting that the customer does not want to miss out on the huge profits predicted by Saxon Financial brokers. Customers are instructed to send their money via wire transfer directly to a MerchantMarx bank account at Commerzbank AG, in Frankfurt, Germany.

30. Saxon Financial brokers typically request additional funds from customers to continue trading, shortly after customers have opened their account. If the broker is unsuccessful in convincing a customer to provide additional funds, the customer is typically referred to another Saxon Financial broker.

31. At least 100 customers have invested funds with Saxon Financial. Contrary to Saxon Financial's repeated claims of huge profit potential and limited risks, the vast majority of Saxon Financial customers typically lose most if not all of their investment, due to combined effect of commissions and trading losses.

32. The acts of Saxon Financial brokers and employees as described above in paragraphs 1-31 were within the scope of the employment or office of said Saxon Financial brokers and employees

V. **VIOLATIONS OF THE ACT AND REGULATIONS**

COUNT I – Violations by Saxon Financial of Section 4c(b) of the Act and Regulations 32.9(a) and (c): Options Fraud (Commodities Other Than Forex)

33. Paragraphs 1 through 32 are re-alleged and incorporated herein.

34. Section 4c(b) of the Act, 7 U.S.C. § 6c(b), makes it unlawful to offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under the Act which is of the character of, or is commonly known to the trade as, an “option,” “privilege,” “indemnity,” “bid,” “offer,” “put,” “call,” “advance guaranty,” or “decline guaranty,” contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe.

35. Regulations 32.9(a) and (c), 17 C.F.R. §§ 32.9(a) and (c), make it unlawful for any person, directly or indirectly (a) to cheat or defraud or attempt to cheat or defraud any person; or (c) to deceive any other person by any means whatsoever, in or in connection with an offer to enter into, the

entry into, the confirmation of the execution of any commodity option transaction.

36. Saxon Financial, by and through its employees including its brokers,, in, or in connection with offers to enter into, the entry into, or the confirmation of the execution of commodity options transactions, cheated or defrauded or attempted to cheat or defraud customers and prospective customers, and deceived or attempted to deceive customers and prospective customers, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Regulations 32.9(a) and (c), 17 C.F.R. §§ 32.9(a) and (c) (2007).

37. Saxon Financial, by and through its employees including its brokers, in or in connection with offers to enter into, the entry into, or the confirmation of the execution of commodity options transactions, cheated or defrauded or attempted to cheat or defraud customers and prospective customers, and deceived or attempted to deceive customers and prospective customers, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Regulations 1.1(b)(1) and (3), and 32.9(a) and (c), 17 C.F.R. §§ 32.9(a) and (c) (2007).

38. Each material misrepresentation, false statement, omission or misappropriation of investor funds, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of

Section 4c(b) of the Act and Regulations 32.9(a) and (c), 17 C.F.R.

§§ 32.9(a) and (c).

COUNT II – Violations by Saxon Financial of Section 4c(b) of the Act and Regulations 1.1(b)(1) and (3), and 32.9(a) and (c): Options Fraud (Forex)

39. Paragraphs 1 through 32 are re-alleged and incorporated herein.

40. Section 4c(b) of the Act, 7 U.S.C. § 6c(b), makes it unlawful to offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under the Act which is of the character of, or is commonly known to the trade as, an “option,” “privilege,” “indemnity,” “bid,” “offer,” “put,” “call,” “advance guaranty,” or “decline guaranty,” contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe.

41. Regulations 1.1(b)(1) and (3), 17 C.F.R. §§ 1.1(b)(1) and (3), make it unlawful for any person, directly or indirectly (1) to cheat or defraud or attempt to cheat or defraud any person; or (3) willfully to deceive any other person by any means whatsoever in or in connection with transactions in forex.

42. Regulations 32.9(a) and (c), 17 C.F.R. §§ 32.9(a) and (c), make it unlawful for any person, directly or indirectly (a) to cheat or defraud or

attempt to cheat or defraud any person; or (c) to deceive any other person by any means whatsoever, in or in connection with an offer to enter into, the entry into, the confirmation of the execution of any commodity option transaction.

43. Saxon Financial, by and through its employees including its brokers, in or in connection with offers to enter into, the entry into, or the confirmation of the execution of commodity options transactions, cheated or defrauded or attempted to cheat or defraud customers and prospective customers, and deceived or attempted to deceive customers and prospective customers, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Regulations 1.1(b)(1) and (3), and 32.9(a) and (c), 17 C.F.R. §§ 32.9(a) and (c) (2007).

44. Saxon Financial employees including its brokers were acting within the scope of each person's employment, agency or office with Saxon Financial when they made their misrepresentations, false statements, omissions or misappropriations of investor funds. Saxon Financial is, therefore, liable for these acts, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B).

45. Each material misrepresentation, false statement, omission or misappropriation of investor funds, including but not limited to those

specifically alleged herein, is alleged as a separate and distinct violation of Section 4c(b) of the Act and Sections 32.9(a) and (c) of the Commission's Regulations, 17 C.F.R. § 32.9(a) and (c).

VI. RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), and pursuant to the Court's own equitable powers enter:

- A. Find Defendant liable for violating Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 1.1(b)(1) and (3), and 32.9(a) and (c), 17 C.F.R. §§ 1.1(b)(1) and (3), and 32.9(a) and (c);
- B. Enter a permanent injunction prohibiting the Defendant and any other person or entity associated with them, or any successor thereof, from engaging in conduct violative of the provisions of the Act and Regulations as alleged in this Complaint, and from engaging in any activity relating to commodity interest trading, including but not limited to, soliciting, accepting or receiving funds, revenue or other property from any person, soliciting prospective customers, or trading commodity-related accounts on behalf of any customer;

- C. Enter an order directing the Defendant and any successors thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constituted violations of the Act and Regulations, as described herein, and interest thereon from the date of such violations;
- D. Enter an order directing the Defendant to make full restitution to every customer whose funds were received by it as a result of acts and practices that constituted violations of the Act and Regulations, as described herein, and interest thereon from the date of such violations;
- E. Enter an order directing Defendant to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices that constitute violations of the Act and Regulations, as described herein, and interest thereon from the date of such violations;
- E. Enter an order directing the Defendant to pay a civil monetary penalty in the amount of not more than the higher of (i) triple the monetary gain to Defendant for each violation of the Act and Regulations or (ii) \$130,000 for each violation of the Act and Regulations;

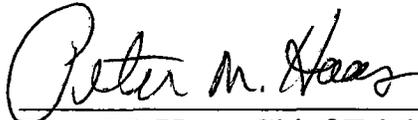
- F. Enter an order requiring Defendant to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and
- G. Enter an order providing such other and further remedial ancillary relief as the Court may deem appropriate.

Respectfully Submitted,



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Respectfully submitted,



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