

NORTH AMERICAN DERIVATIVES EXCHANGE, INC.
NOTICE OF DISCIPLINARY ACTION

FILE NO.: INQ_2017_029

MEMBER: Dwayne Hans

NADEX RULES:

RULE 3.3 MEMBER OBLIGATIONS

(a) Each Member and any authorized Trader(s) thereof must also cooperate promptly and fully with Nadex, its agents, and/or the Commission in any investigation, call for information, inquiry, audit, examination, or proceeding.

(d) Each Member must immediately notify Nadex in writing upon becoming aware:

(ii) that the Member, any of the Member's officers or any of the Member's Authorized Traders has been convicted of, pled guilty or no contest to, or entered a plea agreement to, any felony in any domestic, foreign or military court;

(vi) of any other material change in any information contained in the Member's membership application;

RULE 5.19 PROHIBITED TRANSACTIONS AND ACTIVITIES

(o) No Member shall deposit funds into its Nadex account from an account which does not hold sufficient funds at the time of deposit, and at the time the deposit is presented by Nadex for payment.

(q) No Member shall allow its settlement account balance to become negative by any means. In the event that a Member's settlement account balance becomes negative, the Member must immediately deposit additional funds to correct the deficiency. Any Member whose settlement account carries a negative balance for 30 days or more is subject to summary termination of Membership. Nadex may, in its discretion, take such other action against a Member or market participant if the circumstances warrant, subject to Rule 9.2(f) and Rule 9.6.

FINDINGS: Dwayne Hans ("Hans") became a Nadex Member in July 2014. Between July and October 2014, Hans had made numerous deposits totaling \$7,300, all of which failed to clear. Hans was charged \$300 in returned deposit fees, \$25 for each of

12 separate returned deposits. Hans had acquired a negative balance in July after trading on real-time account funds (“RTAF”) granted in connection with his first deposit prior to the deposit failing. This negative balance coupled with the \$300 in return deposit fees resulted in a total negative account balance of (\$798.55) in October 2014. Hans made no additional deposits and did not engage in trading activity after this time. Three years later, in October 2017, Nadex received an alert from its third party background service, indicating that Dwayne Hans had plead guilty to wire fraud and computer intrusion, involving a scheme where between April and July 2016, he misrepresented himself as a an authorized representative of a US financial institution in order to redirect funds to his personal account, and inappropriately accessed a government website, also for the purpose of redirecting funds to his personal account. Based on its investigation Compliance found the alert was a positive match to the Nadex member of the same name.

According to Nadex Rule 3.3, all Members have an obligation to notify Nadex of a felony conviction or plea agreement that occurs while the individual is a Member, as well as any other changes in material information provided in the individual’s application. Members also have an obligation under the same Rule to cooperate with Nadex’s requests for information in any investigation. Compliance therefore determined that Hans violated Rule 3.3, subsections (a) and (d)(ii) and (iv) when he failed to the Exchange of his felony plea agreement, and when he failed to respond to Compliance’s inquiries regarding the incident to which it was alerted. Moreover, Compliance determined that Hans violated Rule 5.19(o) when he made 12 deposits to his Nadex account, which failed to clear resulting in a negative account balance, and Rule 5.19(q) when he allowed his account balance to become negative and failed to immediately correct the deficit.

PENALTY: As a result of his violations of Rule 3.3 and 5.19, Dwayne Hans’ membership has been revoked and he is banned from trading on Nadex in any capacity.

EFFECTIVE DATE: August 14 2018