
NORTH AMERICAN DERIVATIVES EXCHANGE, INC.
NOTICE OF DISCIPLINARY ACTION

FILE NO.: INQ_2018_022(b)

MEMBER: Arie Bos, Managing Partner, BBOT 1, LP

NADEX RULES:

RULE 3.1 TRADING MEMBERS – APPLICATIONS, CLASSIFICATIONS, AND PRIVILEGES

- (f) A Trading Member that is an individual, may not maintain and/or trade more than one Nadex account. No Authorized Trader(s), nor any officer, director, member, manager, owner, or indirect owner, of a Trading Member that is an entity may maintain a separate Nadex account and/or trade any Nadex account other than that entity's account.

RULE 5.19 PROHIBITED TRANSACTIONS AND ACTIVITIES

- (h) No Person shall engage in any activity that presents a risk of harm to Nadex, its Members, or the public.
- (k) No Person shall intentionally provide misleading, erroneous, or fraudulent information to Nadex on a membership application or otherwise.
- (l) No Person shall create a false appearance of a partnership, agency, employment or affiliate relationship with Nadex and no Person shall unlawfully solicit customer funds for deposit at Nadex.
- (m) No Member may operate or solicit in any capacity that may require registration with the Commodity Futures Trading Commission (CFTC) without being properly registered.
- (t) No Member shall engage in conduct or practices inconsistent with just and equitable principles of trade or conduct or practices detrimental to the best interests of the Exchange, its Members and/or FCM Customers.

FINDINGS: In June 2019, Arie Bos ("Bos") was added as a party to an ongoing Compliance Department investigation into Nadex Entity Member BBOT 1, LP, of which Bos was designated as a Managing Partner and Compliance Contact. Specifically, Nadex received notification that the Commodity Futures Trading Commission ("CFTC") issued a complaint (the "Complaint") against Bos and, among other parties, BBOT 1, LP, alleging fraudulent solicitation, misappropriation, and registration violations in connection with binary options trading. The Complaint alleged that since at least January 2016, Bos received at least \$4.8 million from at least 62

commodity pool participants located in the US and The Netherlands, \$2.5 million of which was misappropriated. The Complaint alleged that Bos fraudulently solicited pool participants to trade binary options through one of two pools that he falsely claimed would generate significant profits based on purported past profitable trading. The Complaint alleged that Bos willfully or recklessly ignored red flags that should have prompted him to seek corroboration of profitability returns at Nadex and instead he distributed improbable profit figures to both existing participants and new prospects. The Complaint also alleged that Bos issued false account statements to pool participants.

Nadex's investigation revealed that Bos, as Managing Partner for Nadex entity Member BBOT 1, LP, failed to provide accurate and complete information to Nadex concerning his knowledge of pool participant funding and trading in a second Nadex account under the name NOI, LLC. Further, Bos unlawfully solicited and accepted funds for deposit to the NOI, LLC account at Nadex, which he permitted to be comprised of funds from the Maas Alternative Investment Fund (SBMAIF) investors, thus engaging in activity and solicitations in a manner that required registration with the CFTC without being properly registered or exempt.

Based on Nadex's investigation, the Compliance Department concluded that Bos violated Nadex Rule 5.19(k) when he failed to provide accurate and complete information to Nadex concerning his knowledge of pool participant funding and trading in a second Nadex account, NOI, LLC. The Compliance Department also concluded that Bos violated Nadex Rule 5.19(l) and 5.19(m) when he, without being properly registered or exempted, unlawfully solicited for and accepted funds for deposit to a second Nadex account, NOI, LLC, thus engaging in activity and operating in a manner that required registration with the CFTC. Additionally, Bos violated Nadex Rule 3.1(f) when he knowingly permitted pool participant funds to be deposited into a second Nadex account, thus maintaining that second account during an overlapping period with the BBOT 1, LP account. Lastly, the Compliance Department concluded that that Bos violated Nadex Rule 5.19(h) and 5.19(t) when he negligently enabled a fraudulent scheme by grossly misleading pool participants on the BBOT 1, LP account's profitability and account balances, among other items. Further, Bos was negligent in his administrative responsibilities, claimed to take certain representations at face value, and failed to independently verify claims regarding account balances and profitability at Nadex.

PENALTY:

As a result of the aforementioned violations, Arie Bos has been assessed a \$20,000.00 fine. Additionally, the Compliance Department maintains jurisdiction pursuant to Nadex Rule 2.10 over Berkley Capital Management ("BCM") as general partner of BBOT 1, LP, and Arie Bos as managing partner of BCM and BBOT 1, LP in this matter. As such, both Berkley Capital Management and Arie Bos are permanently banned from trading on Nadex Markets, either directly for their own accounts, through an intermediary, or as authorized traders on behalf of any other account.

EFFECTIVE DATE: September 8, 2020