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**NORTH AMERICAN DERIVATIVES EXCHANGE, INC.**  
**NOTICE OF DISCIPLINARY ACTION**

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**FILE NO.:** INQ\_2019\_030

**MEMBER:** Pierre Augustin

**NADEX RULES:**

**NADEX MEMBERSHIP AGREEMENT**

Member Acknowledgements and Authorizations, Section (a):

You authorize Nadex to take whatever actions are necessary to execute, clear, and settle orders entered into the Nadex System for Your Account. You authorize Nadex to rely upon any instruction received through use of Your Access Materials without further inquiry, and Nadex shall not be liable to You even if such orders were not authorized by You. You accept full responsibility for monitoring Your Account to ensure that trades have been executed correctly and to ensure that no unauthorized trading is occurring in Your Account. Nadex is not responsible for any Member errors or negligent use of the Nadex System and will not cover losses relating to such improper or negligent use. You may not give control over Your account to any other person or entity and You may not control the account of any other Member. You shall maintain the confidentiality of Your Access Materials and prevent the unauthorized use of Your Access Materials at all times. If You become aware of any deliberate or inadvertent disclosure, loss, theft or unauthorized use of Your Access Materials, You must notify Nadex immediately and request a new password. You may not access or attempt to access the Nadex System using the Access Materials of any other Member, or permit any other person or entity to access or attempt to access the Nadex System using Your Access Materials. Any and all materials that Nadex provides to You in connection with the Nadex System are the property of Nadex and are intended for Your sole and individual use.

Member Representations, Section (d):

You and, if relevant, Your employees and agents will not trade or otherwise act on behalf of any other person or entity (whether or not a Member) in placing orders on the Nadex System, including by allowing any person not disclosed on the Membership Application to have an economic interest in the trades placed by the Member

Member Acknowledgements and Authorizations, Section (h):

You acknowledge and agree that You will, following a request by Nadex, promptly provide to Nadex financial or other information as Nadex may reasonably request or as may be required

for Nadex to respond to a request for information from the Commodity Futures Trading Commission (“CFTC”) or other regulatory or judicial bodies.

### **RULE 3.3 MEMBER OBLIGATIONS**

- (a) Each Member and any Authorized Trader(s) thereof, must comply with these Rules, applicable provisions of the Commodity Exchange Act, and relevant Commission regulations. 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. Such cooperation shall include providing Nadex with access to information on the activities of such Member and/or Authorized Trader in any referenced market that provides the underlying prices for any Nadex market. . . .

### **RULE 5.2 TRADING MEMBER AND AUTHORIZED TRADER ACCESS TO NADEX**

- (e) Each Trading Member will be responsible for protecting its ID and password, and with respect to an entity Trading Member, the ID(s) and password(s) of its Authorized Trader(s), from improper disclosure. In addition, a Trading Member may not knowingly or negligently permit any Person not authorized by Nadex and by the Trading Member to use the ID and password to access the secure portion of the Nadex website. A Trading Member that is an entity, and its Authorized Trader(s) are prohibited from allowing any other person or entity from using these credentials to access the Nadex markets. Each Trading Member is required to immediately notify Nadex if it knows, or has reason to believe, that its ID or the ID and/or password of any Authorized Trader have been disclosed to any Person not authorized by Nadex and the Trading Member to use such ID and/or password. Under any circumstances, the Trading Member will be deemed to know that such ID and/or password have been disclosed to an unauthorized person 12 hours after any order is entered by that unauthorized person in your account.

### **RULE 5.19 PROHIBITED TRANSACTIONS AND ACTIVITIES**

- (g)(2) No individual or entity Trading Member may deposit funds, or allow funds to be deposited into their Nadex account from any bank account or debit card not held in the same name as their Nadex account.
- (k) No Person shall intentionally provide misleading, erroneous, or fraudulent information to Nadex on a membership application or otherwise.
- (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.
- (p) No Member shall make a false representation to a third party regarding any deposit made into that Member’s Nadex account which would result in a chargeback or stop payment of funds to the Member’s account.

- (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:** On July 29, 2019, Nadex Member Pierre Augustin ("Augustin") was notified by Nadex Compliance that his account was the subject of an investigation. On July 31, 2019, Nadex Compliance sent Augustin an Investigation Inquiry letter requesting certain information regarding the access, funding and trading of his Nadex account. Augustin failed to respond to Nadex's request for information

Nadex's investigation revealed that Augustin allowed a third party to access, fund and trade his Nadex account, engaging in activity in violation of Nadex Rules. Over the life of his Nadex account, Augustin also made various ACH deposits, which later bounced due to insufficient funds, leaving his account with a negative balance and made a false representation to his bank which resulted in a chargeback, causing his Nadex account balance to become negative. Augustin also submitted an altered bank account statement to Nadex, in an attempt to conceal the true source of the funds.

Augustin violated Exchange Rule 5.2(e) and the Nadex Membership Agreement, Member Acknowledgements and Authorizations, Section (a) when he allowed a third party to access his Nadex account by either failing to protect his username and password, or knowingly permitting third party access. Augustin also violated Nadex Rule 5.19(g)(2) when he deposited funds into his Nadex account which belonged to a third party and the Nadex Membership Agreement, Member Representations, Section (d) by allowing another person to have an economic interest in his Nadex account. Augustin also violated Nadex Rule 3.3(a) and the Nadex Membership Agreement, Member Acknowledgements and Authorizations, Section (h) when he failed to respond to Nadex's request for information. The Compliance Department has also concluded that Augustin violated Nadex Rules 5.19(o) and 5.19(q) when he deposited funds into his Nadex account from a bank account that did not have sufficient funds at the time of deposit and allowed the settlement account balance of his Nadex account to become negative. Augustin also violated Nadex Rule 5.19(p) when he made a false representation to his bank regarding his Nadex deposit which resulted in a chargeback to his Nadex account. Finally, Augustin violated Nadex Rule 5.19(k) when he submitted an altered bank statement to Nadex.

**PENALTY:** As a result of the aforementioned violations, the Nadex Compliance Department has deemed it appropriate to assess Pierre Augustin a fine of \$3,500.00. Additionally, Pierre Augustin's Nadex Membership has been revoked, his account terminated, and he has been permanently banned from trading on Nadex Markets, either directly for his own account or through an intermediary, or as an authorized trader on behalf of any other account.

**EFFECTIVE DATE:** March 3, 2021