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WAYNE HAROLD BROWER,
Complainant,

v.

AMERICAN ATLANTIC FINANCIAL CORP.;
DAVID SETH GODNICK, and
TEPHNY PETIT JUENE
a/k/a TERRY PETIT
Respondents.

CFTC Docket No. 09-R12

DEFAULT ORDER

Respondents David Seth Godnick, Tephny Petit Juene a/k/a Terry Petit, and American Atlantic Financial Corporation have failed to file answers to the complaint, and thus are in default. Each default is deemed: an admission of the allegations in the complaint, as supplemented by Brower's affidavit and other documentary evidence; a waiver of any affirmative defenses; and a waiver of any decisional procedure afforded by the Commission's reparations rules.

In addition, by defaulting, Godnick, Petit and American Atlantic have waived any objection to the use of secondary materials. Since respondents' defaults have precluded obtaining relevant information presumably in their possession, I have obtained account-opening documents and a set of account statements via a *sua sponte* subpoena served on the clearing broker, Comtrust, and I have taken official notice of respondents' registration and disciplinary histories in NFA records. The account-opening documents put respondents on notice that

Brower was an unsophisticated novice trader. The account statements establish: that Brower maintained his account from May 2005 to July 11, 2007; that Brower would deposit a total of $100,000 by June 24, 2005; that respondents steered Brower into patently dubious, commission-generating options trades; that respondents would charge a total of $100,800 in commissions which quickly consumed Brower's investment and assured that the trades they recommended were highly unlikely to realize any profits; and that Brower's out-of-pocket losses would ultimately total $97,449.

By Decision dated July 23, 2008, and affirmed March 19, 2009, the NFA permanently barred American Atlantic and its owner John Menoutis, barred Godnick until August 2010, and barred Petit until August 2009. In addition, the NFA imposed an enhanced supervision requirement on Godnick and Petit, in the event that they seek to renew their registrations.

In its Decision, the NFA hearing panel found that almost all of American Atlantic's customers had lost most of their investments, found pervasive and unrestrained fraud, and unreservedly condemned American Atlantic and its principal and agents:

> American Atlantic had two main goals: maximize commissions and prevent customers from filing complaints. Respondents pursued both goals with a complete disdain for their customers' best interests.
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> . . . .
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> The testimony and evidence in this case paint a very clear picture of a firm that has been around long enough to perfect the art of misrepresentation, that treats "compliance" as a means to protect itself from claims of misrepresentation and fraud while preventing customers from obtaining the knowledge they need to protect themselves against that fraud, and that attempts to intimidate anyone who chooses to complain or challenge its conduct. Respondents represent the worst in this industry - a firm and collection of individuals who have eschewed the opportunity to operate honestly, and instead have chosen to learn how to misrepresent the products they are selling (or purporting to sell) while creating the appearance of a defensible records. This expertise on their part made it a difficult case for NFA to present. Over time, however, the Panel's ability to observe the actors' demeanor first-hand helped it to discern a clear pattern of conduct, lack of credibility, and hubris that put the entire picture in perspective.

[Page 2, Decision.]

After reviewing the evidentiary record, it has been concluded: that David Seth Godnick, Tephny Petit Juene a/k/a Terry Petit, and American Atlantic Financial Corporation defrauded Wayne Harold Brower in a flagrant load and churn scheme in violation of Section 4c(b) of the Commodity Exchange Act and CFTC rule 33.10; that their violations proximately caused $100,800 in damages;[1] and that American Atlantic Financial is liable for the violations of Godnick and Petit pursuant to Section 2(a)(1)(B) of the Act. Accordingly, David Seth Godnick, Tephny Petit Juene a/k/a Terry Petit, and American Atlantic Financial Corporation are ordered to pay to Wayne Harold Brower reparations of $100,800, plus pre-judgment and post-judgment interest on that amount at 0.57% compounded annually from June 24, 2005,[2] to the date of payment, plus $250 in costs for the filing fee. Liability is joint and several.

Brower should note that since American Atlantic and its owner are permanently barred and out of business, and since Godnick and Petit are temporarily barred, "tainted" brokers with presumably limited prospects of re-employment, it may be difficult to collect this award.

Dated April 22, 2009.

Philip V. McGuire,
Judgment Officer

[1] Brower made five deposits from May 23 to June 24, 2005, totaling $100,000, with the largest -- $49,500 -- on June 24, 2005. Brower received back $2,551 in refunds. Thus, his net losses were $97,449. Brower paid a total of $100,800 in commissions. The damage calculation and damage award is based on the larger of these two figures.

[2] By June 24, 2005, Brower had made his last and largest deposit, and had paid about half of the total commissions.