

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.:

**07 - 61058**

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

v.

NATIONS INVESTMENTS, LLC

Defendant,

and

SULAIMAN "SAL" HUSAIN and  
SAMMY JOE GOLDMAN

Relief Defendants.

**CIV - COOKE**

**MAGISTRATE JUDGE  
BROWN**

S.D. OF FLA.-FT. L.

2007 JUL 30 AM 8:41

**COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF, AND A CIVIL  
MONETARY PENALTY**

**I. JURISDICTION AND VENUE**

1. The Commodity Exchange Act, as amended, 7 U.S.C § 1 *et seq.* (2001) (the "Act"), establishes a comprehensive system for regulating commodity futures contracts and options on commodity futures contracts and those who are registrants pursuant to the Act. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2001), which authorizes the Commodity Futures Trading Commission ("CFTC" or "Commission") to seek injunctive relief against any person or entity whenever it shall appear to the Commission that such person or entity has engaged, is engaging, or is about to engage

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in any act or practice constituting a violation of any provision of the Act or any Commission rule, regulation or order.

2. Venue properly lies with the Court pursuant to Section 6c of the Act, in that the Defendant is found in, inhabits, or transacts business in this district, and the acts and practices in violation of the Act occurred, are occurring, or are about to occur within this district.

## **II. SUMMARY**

3. Defendant Nations Investments LLC, (“Nations”), a registered futures commission merchant (“FCM”), solicits and accepts customer funds in the foreign currency market. Nations is a member of the National Futures Association (“NFA”). As a registered FCM, Nations offers retail customers trading in exchange-traded futures and the opportunity to speculate on forex transactions, including forex options. Nations acted or purported to act as a counterparty to each forex transaction entered into by its customers. Based upon information and belief, Nations, in turn, enters into trades with financial institutions who offer forex trading. As a registered FCM, Nations is required to meet minimum capitalization requirements. *See* Sections 4f(a)(1) of the Act and Commission Regulation 1.17(a)(1).

4. As of July 21, 2007, and perhaps earlier, Nations’ net capitalization was below the adjusted net capital required by the Act and Commission Regulation 1.17(a). On July 21, 2007, Nations notified the NFA that Nations had fallen under the NFA’s minimum required adjusted net capital required by the Act and Commission Regulation 1.17(a).

5. As of July 23, 2007, Nations was under the minimum required net capital by approximately \$3.5 million.

6. Further, Relief Defendants Sulaiman "Sal" Husain and Sam Goldman each withdrew \$500,000 from Nations' accounts on July 17, 2007, either causing or contributing to the undercapitalization.

7. Accordingly, the Commission brings this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, to enjoin Defendant's unlawful acts and practices and to compel its compliance with the Act. In addition, the Commission seeks disgorgement of Defendant's and Relief Defendants' ill-gotten gains, restitution to customers for damages proximately caused by Defendant's violations, civil monetary penalties and such other relief as this Court may deem necessary and appropriate.

8. Unless restrained and 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.

### **III. THE PARTIES**

#### **A. Plaintiff**

9. Plaintiff Commission is an independent federal regulatory agency charged with the responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* (2001), and the Regulations promulgated under it, 17 C.F.R. §§ 1 *et seq.* (2006). The Commission maintains its principal office at Three Lafayette Centre, 1155 21<sup>st</sup> Street, NW, Washington, D.C. 20581.

#### **B. Defendant**

10. Nations is a registered FCM that solicits and accepts customer funds to trade foreign currency transactions. Nations is a Forex Dealer Member of the NFA whose principal place of business is located at 1700 NW 64<sup>th</sup> Street, Suite 100, Fort Lauderdale, Florida, 33309.

On August 22, 2005, Nations became registered as a FCM with the Commission and became a member of the National Futures Association (“NFA”).

**C. Relief Defendants**

11. Sulaiman Husain, also known as Sal Husain (“Sal Husain”), is a Director, the Chief Financial Officer, and a principal of Nations. He is a resident of Southwest Ranches, Florida. In March 2002, Husain was the subject of a National Futures Association (“NFA”) complaint alleging that he failed to supervise a guaranteed introducing broker. In May 2003, Husain was the subject of a NFA complaint charging that he failed to diligently supervise employees and agents in the conduct of their commodity futures activities.

12. Sammy Jo Goldman, also known as Sam Goldman (“Goldman”), is an owner and former principal of Nations. He is a resident of Delray Beach, Florida. In October 2001, Goldman was the subject of a NFA complaint alleging that Goldman failed to diligently supervise employees and agents in the conduct of their commodity futures activities. In June 1999, Goldman was the subject of an NFA complaint alleging that he used promotional material that was deceptive and misleading, he failed to supervise the use of promotional material and provided misleading information to the NFA. The complaint also alleged that Goldman failed to diligently supervise employees.

**IV. FACTS**

13. Since it began operations, Nations acted as a FCM and solicited customers to trade foreign currency transactions (“forex”). Customers enter into open forex positions in which Nations acts as the counterparty to the trades.

14. Pursuant to Section 4f(b) of the Act and Commission Regulation 1.17(a)(1), Nations is required to maintain at least a minimum amount of adjusted net capital to operate as a FCM. According to Commission Regulation 1.17(c)(1), "net capital" means the amount by which current assets exceed liabilities. Because Nations is a member of the NFA, it must meet the minimal adjusted net capital required by the NFA. *See* 17 C.F.R. § 1.17(a)(1)(C) (2006). The NFA requires a minimum net capital of \$1,000,000.

15. On July 21, 2007, Nations notified the NFA that Nations had fallen under the NFA's minimum required adjusted net capital required by the Act and Commission Regulation 1.17(a).

16. On the morning of July 23, 2007, Relief Defendant Sal Husain, represented to the NFA that Nations was under the minimum required net capital by approximately \$3.5 million. That same day the NFA sent Nations a letter notifying them that, inasmuch as Nations was unable to demonstrate compliance with the minimum capitalization requirements, Nations was required to cease doing business, including the solicitation or acceptance of any additional customer funds, and could only accept or place trades for liquidation purposes until such time as it demonstrated it had in place the required capitalization, pursuant to Commission Regulation 1.17(a)(4).

17. Also on July 23, 2007, the NFA received another notice from Nations representing that the firm had fallen under the required minimum capitalization requirements "due to losses in the forex markets." This letter also indicated that Nations was attempting to raise \$5 million "to make customers whole."

18. Nations also provided the NFA with a Form 1-FR, which indicated that as of July 20, 2007, Nations owed customers trading in on-exchange futures more than \$3 million and customers trading off-exchange forex transactions more than \$5 million. That form also indicates that, although Nations appears to have sufficient funds segregated for purposes of its liabilities to on-exchange customers, it has less than \$2 million available to meet its \$5 million obligation to forex customers.

19. Because Nations is a member of the NFA, it is required to maintain an adjusted net capital requirement of \$1,000,000. *See* 17 C.F.R. 1.17(a)(1)(C) (2006); NFA Financial requirements Section 11. Since Nations' liabilities exceed its assets, it necessarily fails to meet the minimum capitalization requirements and, in fact, is insolvent by approximately \$3.5 million, and undercapitalized by approximately \$4.5 million.

20. Relief Defendants Sal Husain and Sam Goldman each withdrew \$500,000 from Nations' accounts on or about July 17, 2007.

21. To date, Nations has not satisfied its capitalization requirements.

22. Pursuant to Commission Regulation 1.17(a)(4), a FCM who fails to meet its adjusted net capital requirements must transfer all customer accounts, provided that such registrant may trade for liquidation purposes. Nations has not transferred its forex customer accounts.

**V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT**

**COUNT ONE:  
VIOLATIONS OF SECTION 4f(b) OF THE ACT  
AND COMMISSION REGULATIONS 1.17(a)(1)(C) and 1.17(a)(4):  
FAILURE TO MAINTAIN REQUIRED MINIMUM ADJUSTED NET  
CAPITAL AND OPERATING WHILE UNDERCAPITALIZED**

23. The allegations set forth in paragraphs 1 through 22 are re-alleged and incorporated herein by reference.

24. From at least August 2005, Nations has operated as a counterparty to customers trading forex. Since at least July 21, 2007, Defendant Nations has failed to satisfy its minimum adjusted net capital requirements for FCMs registered with the Commission and members of the NFA in violation of Section 4f(b) of the Act, 7 U.S.C. § 6f(b) (2002) and Commission Regulation Section 1.17(a)(1)(C), 17 C.F.R. § 1.17(a)(1)(C) (2006).

25. Since at least July 20, 2007, Nations operated while undercapitalized and failed to transfer all customer accounts and cease doing business as a FCM, in violation of Commission Regulation 1.17(a)(4), 17 C.F.R. § 1.17(a)(4) (2006).

26. Each day Nations failed to satisfy its adjusted net capitalization requirements, is alleged as a separate and distinct violations of Section 4f(b) of the Act, 7 U.S.C. § 6f(b), and Commission Regulations 1.17(a)(1)(C) and 1.17 (a)(4), 17 C.F.R. § 1.17(a)(1)(C) and 1.17 (a)(4) (2006).

**COUNT TWO  
DISGORGEMENT OF THE ASSETS OF THE RELIEF DEFENDANTS**

26. Plaintiff realleges paragraphs 1 through 22 above and incorporates these allegations herein by reference.

27. Defendant Nations, through its undercapitalization, has violated the Act as alleged herein.

28. The Relief Defendants have received funds or otherwise benefited from funds which are directly traceable to the funds obtained from Nations' customers.

29. Upon information and belief, the Relief Defendants are not *bona fide* purchasers with legal and equitable title to the customers' funds or assets, and the Relief Defendants will be unjustly enriched if they are not required to disgorge the funds or the value of the benefit they obtained from Nations' conduct.

30. The Relief Defendants should be required to disgorge the funds and assets, or the value of the benefit they received from those funds and assets, which are traceable to Nations' accounts.

31. By reason of the foregoing, the Relief Defendants hold funds and assets in constructive trust for the benefit of Nations' customers.

#### **VI. RELIEF REQUESTED**

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

a) a permanent injunction enjoining Defendant from violating Section 4f(a) and (b) of the Act, 7 U.S.C. § 6f(a) and (b) (2001); and Commission Regulations 1.17(a)(1)(C) and (4), 17 C.F.R. §§ 1.17(a)(1)(C) and (4)(2006);

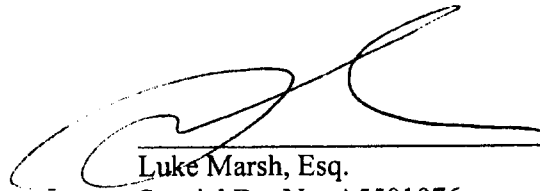
e) an order directing Defendant and Relief Defendants to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constitute violations of the Act, as described herein, and interest thereon from the date of such violations;



- f) an order directing Defendant to make full restitution to every customer whose funds were lost as a result of acts and practices which constituted violations of the Act and Regulations, described herein, and interest thereon from the date of such violations;
- g) a civil penalty against Defendant in the amount of not more than the higher of \$130,000 or triple the monetary gain to the Defendant for each violation by the Defendant of the Act or Regulations; and
- h) such other and further remedial ancillary relief as the Court may deem appropriate.

Date: July 27, 2007

Respectfully submitted,



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phayeck@cftc.gov  
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Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
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(202) 418-5000 telephone  
(202) 418-5538 facsimile

*Attorneys for Plaintiff*

JS 44 (Rev. 11/05)

**CIVIL COVER SHEET**

**67-61058**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

<p><b>I. (a) PLAINTIFFS</b></p> <p>Commodity Futures Trading Commission</p> <p><b>(b)</b> County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p><b>(c)</b> Attorney's (Firm Name, Address, and Telephone Number)</p> <p>Luke B. Marsh, Esq. Commodity Futures Trading Commission 1155 21st Street, NW Washington DC 20581</p>	<p><b>DEFENDANTS</b></p> <p>Nations Investments, LLC</p> <p>County of Residence of First Listed Defendant <b>Broward</b> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.</p> <p><b>MAGISTRATE JUDGE</b></p> <p>Attorneys (If Known) <b>BROWN</b></p>
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**(d)** Check County Where Action Arose:  MIAMI-DADE  MONROE  BROWARD  PALM BEACH  MARTIN  ST. LUCIE  INDIAN RIVER  OKEECHOBEE  HIGHLANDS

<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input checked="" type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;"><b>PTF</b></td> <td style="text-align: center;"><b>DEF</b></td> <td></td> <td style="text-align: center;"><b>PTF</b></td> <td style="text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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<b>IV. NATURE OF SUIT</b> (Place an "X" in One Box Only)				
<b>CONTRACT</b>	<b>TORTS</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>LABOR</b>	<b>FEDERAL TAX SUITS</b>	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
	<b>PRISONER PETITIONS</b>			
	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding  2 Removed from State Court  3 Re-filed- (see VI below)  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

**VI. RELATED/RE-FILED CASE(S).**

a) Re-filed Case  YES  NO      b) Related Cases  YES  NO

(See instructions second page): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

**VII. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

Defendants failed to maintain sufficient net capitalization, in violation of 7 U.S.C. § 13a-1 (2001); Sections 4f(a) (1) of the Commodity Exchange Act ("Act") and Commodity Futures Trading Commission ("Commission")

LENGTH OF TRIAL via 7 days estimated (for both sides to try entire case)

**VIII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23      **DEMAND \$** \_\_\_\_\_

CHECK YES only if demanded in complaint: **JURY DEMAND:**  Yes  No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE      SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_      DATE \_\_\_\_\_

**FOR OFFICE USE ONLY**

AMOUNT \_\_\_\_\_ RECEIPT # \_\_\_\_\_ IFP \_\_\_\_\_