



Case Summary

MBH COMMODITY ADVISORS INC

NFA 96BCC00015

NFA ID: 0001782

Respondent/Effective Date Summary

NFA ID	Respondent	Effective Date
0054855	BERNSTEIN, JACOB	03/08/1999
0001782	MBH COMMODITY ADVISORS INC	03/08/1999

Rule Summary

NFA ID	Respondent	Rule Type
0054855	BERNSTEIN, JACOB	<ul style="list-style-type: none">• C.R.2-29(b)(3) - BALANCED DISCUSSION RE PROFIT/RISK• C.R.2-29(b)(2) - MISSTATEMT/OMISSION OF FACT PROMP• C.R.2-29(b)(1) - USE OF DECEPTIVE PROMO MATER.• C.R.2-29(a)(3) - REPS THAT FUTURES APPROPRIATE ALL• C.R.2-29(a)(1) - FRAUDULENT COMM. TO PUBLIC PROHIB.• C.R.2-29(c) - STATEMENT OF OPINION
0001782	MBH COMMODITY ADVISORS INC	<ul style="list-style-type: none">• C.R.2-29(b)(3) - BALANCED DISCUSSION RE PROFIT/RISK• C.R.2-29(b)(2) - MISSTATEMT/OMISSION OF FACT PROMP• C.R.2-29(b)(1) - USE OF DECEPTIVE PROMO MATER.• C.R.2-29(a)(3) - REPS THAT FUTURES APPROPRIATE ALL

- C.R.2-29(a)(1) - FRAUDULENT COMM. TO PUBLIC PROHIB.
- C.R.2-29(c) - STATEMENT OF OPINION

Committee Summary

NFA ID	Respondent	Committee
0054855	BERNSTEIN, JACOB	<ul style="list-style-type: none"> • APPEALS COMMITTEE • BUSINESS CONDUCT COMMITTEE
0001782	MBH COMMODITY ADVISORS INC	<ul style="list-style-type: none"> • BUSINESS CONDUCT COMMITTEE • APPEALS COMMITTEE

Action Summary

NFA ID	Respondent	Action Types
0054855	BERNSTEIN, JACOB	<ul style="list-style-type: none"> • SALES PRACTICE
0001782	MBH COMMODITY ADVISORS INC	<ul style="list-style-type: none"> • SALES PRACTICE

Penalty/Event Summary

NFA ID	Respondent	Penalty/Event	Event Date
0054855	BERNSTEIN, JACOB	<ul style="list-style-type: none"> • FINE \$200000 • AFFIRMED ON APPEAL - FEDERAL COURT • PERMANENT BAR FROM NFA MEMBERSHIP • ON APPEAL - FEDERAL COURT • AFFIRMED ON APPEAL - CFTC 	<ul style="list-style-type: none"> 05/07/2001 05/05/2000 04/13/2000 03/31/2000
0001782	MBH COMMODITY ADVISORS INC	<ul style="list-style-type: none"> • EXPELLED FROM MEMBERSHIP • FINE \$200000 • AFFIRMED ON APPEAL - FEDERAL COURT • ON APPEAL - FEDERAL COURT • AFFIRMED ON APPEAL - CFTC 	<ul style="list-style-type: none"> 05/07/2001 04/13/2000 03/31/2000

Narrative Summary

General Case Narrative

COMPLAINT:

ON DECEMBER 31, 1996, NFA'S BUSINESS CONDUCT COMMITTEE ("BCC") ISSUED A COMPLAINT TO MBH COMMODITY ADVISORS, INC. ("MBH") AND JACOB BERNSTEIN ("BERNSTEIN"). THE COMPLAINT ALLEGES THAT MBH AND BERNSTEIN USED MISLEADING AND DECEPTIVE PROMOTIONAL MATERIAL, IN VIOLATION OF NFA COMPLIANCE RULES 2-29(a)(1), 2-29(b)(1), AND 2-29(b)(2). IN ADDITION, THE COMPLAINT ALLEGES THAT MBH AND BERNSTEIN USED PROMOTIONAL MATERIAL THAT MENTIONED THE POSSIBILITY OF PROFIT AND FAILED TO MENTION THE RISK OF LOSS IN AN EQUALLY PROMINENT MANNER, IN VIOLATION OF NFA COMPLIANCE RULE 2-29(b)(3). FURTHER, THE COMPLAINT ALLEGES THE MBH AND BERNSTEIN USED PROMOTIONAL MATERIAL WHICH STATES THAT FUTURES TRADING IS APPROPRIATE FOR ALL PERSONS, IN VIOLATION OF NFA COMPLIANCE RULE 2-29(a)(3). FINALLY, THE COMPLAINT ALLEGES THAT MBH AND BERNSTEIN USED PROMOTIONAL MATERIAL WHICH CONTAINED HYPOTHETICAL RESULTS WITHOUT INCLUDING THE REQUIRED DISCLAIMER, IN VIOLATION OF NFA COMPLIANCE RULE 2-29(c)(1).

ANSWER TO COMPLAINT:

ON FEBRUARY 3, 1997, MBH AND BERNSTEIN FILED AN ANSWER TO THE COMPLAINT IN WHICH THEY DENIED THE MATERIAL ALLEGATIONS CONTAINED THEREIN AND REQUESTED A HEARING BEFORE NFA'S HEARING COMMITTEE.

DECISION:

ON MAY 5, 1998, A DESIGNATED PANEL OF NFA'S HEARING COMMITTEE ISSUED A DECISION TO MBH AND BERNSTEIN AFTER A HEARING WAS HELD. AFTER CONSIDERING ALL OF THE RELEVANT TESTIMONY AND DOCUMENTARY EVIDENCE PRESENTED AT THE HEARING, THE PANEL FOUND THAT MBH AND BERNSTEIN VIOLATED NFA COMPLIANCE RULES 2-29(a)(1), 2-29(b)(1), 2-29(a)(3), 2-29(b)(3), AND 2-29(c)(1). THE PANEL ALSO FOUND THAT MBH'S AND BERNSTEIN'S CONDUCT IS INCONSISTENT WITH JUST AND EQUITABLE PRINCIPLES OF TRADE.

AS A RESULT OF ITS FINDINGS, THE PANEL EXPELLED MBH FROM NFA MEMBERSHIP AND BARRED BERNSTEIN FROM ASSOCIATION WITH OR BEING A PRINCIPAL OF ANY NFA MEMBER. THE PANEL ALSO ORDERED MBH AND BERNSTEIN TO PAY A \$200,000.00 FINE. MBH AND BERNSTEIN ARE JOINTLY AND SEVERALLY LIABLE FOR THE FINE. THIS DECISION BECOMES EFFECTIVE MAY 20, 1998.

NOTICE OF APPEAL:

ON MAY 20, 1998, MBH AND BERNSTEIN FILED A NOTICE OF APPEAL OF THE HEARING PANEL'S DECISION WITH NFA'S APPEALS COMMITTEE.

APPEAL DECISION:

ON FEBRUARY 19, 1999, NFA'S APPEALS COMMITTEE ("COMMITTEE") ISSUED A DECISION TO MBH AND BERNSTEIN. THE COMMITTEE AFFIRMED ALL OF THE SANCTIONS IMPOSED BY THE HEARING PANEL. THIS DECISION BECOMES EFFECTIVE MARCH 8, 1999.

NOTICE OF APPEAL/PETITION FOR STAY

ON OR ABOUT MARCH 1, 1999, MBH AND BERNSTEIN FILED AN APPEAL OF THE APPEALS COMMITTEE'S DECISION WITH THE CFTC, AND A PETITION FOR A STAY OF THE EFFECTIVE DATE OF THE DECISION.

CFTC ORDER:

ON MARCH 22, 1999, THE CFTC DENIED MBH AND BERNSTEIN'S PETITION FOR A STAY.

CFTC ORDER:

On March 31, 2000, the CFTC established that the findings and conclusions of NFA are supported by the weight of the evidence. The CFTC further concluded that NFA committed no error material to the outcome of this proceeding and that the parties generally have not raised important questions of law or policy that merit extended discussion. The CFTC affirmed NFA's Decision without opinion, that a \$200,000 civil money penalty is justified based upon the gravity of appellant's wrongdoing and that any error that the Hearing Committee committed by considering evidence outside the record was harmless.

APPEAL -

On April 13, 2000, MBH Commodity Advisors, Inc. and Bernstein filed a petition for review in the United States Court of Appeals for the Seventh Circuit.

APPEAL -

On May 7, 2001, the Seventh Circuit issued a Decision affirming the CFTC's Order.

Narrative for 0054855 - BERNSTEIN, JACOB

COMPLAINT:

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ANSWER TO COMPLAINT:

ON FEBRUARY 3, 1997, MBH AND BERNSTEIN FILED AN ANSWER TO THE COMPLAINT IN WHICH THEY DENIED THE MATERIAL ALLEGATIONS CONTAINED THEREIN AND REQUESTED A HEARING BEFORE NFA'S HEARING COMMITTEE.

DECISION:

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Narrative for 0001782 - MBH COMMODITY ADVISORS INC

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Case Documents Summary

No case documents have been found for this case.

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