

**NATIONAL FUTURES ASSOCIATION  
BEFORE THE HEARING PANEL**

**FILED**

SEP 12 2017

**NATIONAL FUTURES ASSOCIATION  
LEGAL DOCKETING**

In the Matter of:

KINGSVIEW FUTURES LLC  
(NFA ID #291368),

JOSHUA MATTHEW LEWIS  
(NFA ID #271814),

and

NOEL SINCLAIR  
(NFA ID #41744),

Respondents.

NFA Case No. 16-BCC-017

**AMENDED COMPLAINT**

Having reviewed and granted the parties' Agreed Motion to Amend the Pleadings (Agreed Motion to Amend), the Hearing Panel hereby issues this Amended Complaint against Kingsview Futures LLC (Kingsview Futures), Joshua Matthew Lewis (Lewis) and Noel Sinclair (Sinclair).

**ALLEGATIONS**

**JURISDICTION**

1. At all times relevant to this Amended Complaint, Kingsview Futures was a registered introducing broker (IB) NFA Member. As such, Kingsview Futures was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.
2. At all times relevant to this Amended Complaint, Lewis was an associated person (AP) and listed principal of Kingsview Futures, and an NFA Associate. As such, Lewis was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Kingsview Futures is liable for

violations of NFA Requirements committed by Lewis in the course of his activities on behalf of the firm.

3. At all times relevant to this Amended Complaint, Sinclair was an AP and listed principal of Kingsview Futures, and an NFA Associate. As such, Sinclair was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Kingsview Futures is liable for violations of NFA Requirements committed by Sinclair in the course of his activities on behalf of the firm.

### **BACKGROUND**

4. Kingsview Futures has been an NFA Member since December 1998. Kingsview Futures' headquarters are in Chicago, Illinois and the firm has eight branch offices.
5. NFA's most recent examination of Kingsview Futures commenced on May 11, 2015. At the time of the exam, Kingsview Futures had three principals, including Lewis and Sinclair, and 26 registered APs.
6. Lewis has been an NFA Associate since 1996 and is the sole owner and chief executive officer (CEO) of Kingsview Futures. In addition to Kingsview Futures, Lewis has been an AP and/or principal of several other Member firms since 1996, including Direct Futures LLC (Direct Futures), an IB NFA Member which was the subject of a Complaint this Committee issued in 2010, charging the firm and some of its APs with using deceptive and misleading sales solicitations.
7. Besides his role at Kingsview Futures, Lewis also owns and operates Kingsview Asset Management, a non-Member investment adviser (IA) registered with the Securities and Exchange Commission.

8. Sinclair was a listed principal and AP of Kingsview Futures from February 9, 2011 to August 10, 2016. Sinclair served as the firm's chief compliance officer (CCO) from at least March 2012 until August 2016, when his employment with Kingsview Futures ended. As CCO, Sinclair's responsibilities included supervising the firm's APs and new accounts, and reviewing and approving the firm's promotional materials. In addition to Kingsview Futures, Sinclair has worked periodically since 1984 as an AP for several other NFA Members.
9. Kingsview Futures' main business involves introducing retail customers' managed and self-directed accounts to futures commission merchants (FCMs).
10. Kingsview Futures also operates a "wholesale" business, whereby it solicits other IBs to introduce accounts to FCMs with which Kingsview Futures has a relationship and, in return, receives a trailing commission from the accounts the other IBs introduce to the FCMs.
11. At the time of the 2015 examination, Kingsview Futures had approximately 660 active accounts, of which around 200 were self-directed. Kingsview Futures obtained virtually all of the self-directed accounts from customer leads generated by Trading Advantage LLC (Trading Advantage).
12. Trading Advantage is a non-NFA Member trading education firm, co-owned by Lewis. The firm provides clients with live online courses and in-person seminars covering futures, currencies/forex, stocks and options trading. In Trading Advantage's courses, individuals act as "mentors" and "coaches" and instruct student attendees on how to understand charts and market information, develop trading strategies, and identify/manage trading signals. Since mid-2015, Trading

Advantage has situated its "investment school" in offices directly across the hall from Kingsview Futures' Chicago office.

13. Trading Advantage also offers classes using a proprietary trading platform, called TA Trader, which students may purchase and use in trading their accounts. Students using the TA Trader software have the choice of dealing directly with the software developer or using TA Trader through Kingsview Futures, where Kingsview Futures APs provide technical support for the software.
14. In addition, Trading Advantage offers a proprietary trading program, called Trading Advantage Capital, where the firm offers clients the opportunity to trade using Trading Advantage's money and receive 60% of the trading profits. Although the materials Trading Advantage uses to promote this program tout the likelihood of profit, the materials do not disclose all of the program's requirements – which make it difficult to actually qualify for the program – until after students pay a non-refundable fee for the opportunity to participate in the program.
15. Lewis has owned Trading Advantage since 1999, when he purchased the firm from Larry Levin (Levin), a registered floor broker with trading privileges at the Chicago Mercantile Exchange. In 2005, Levin returned to Trading Advantage and became a co-owner of the firm with Lewis.
16. Levin presently is the CEO and president of Trading Advantage, with responsibility for managing the firm's daily operations. Levin appears as the face of the company, and Trading Advantage's promotional materials, including its website and YouTube videos, feature him prominently. The promotional materials tout the "secrets of trading" and "successful methods" that Levin

supposedly learned from the trading floor, which Trading Advantage and Levin claim are needed to "make a fortune" in the markets.

17. Most of the customers who opened self-directed accounts with Kingsview Futures were current or prior Trading Advantage students who Trading Advantage referred to Kingsview Futures.
18. Kingsview Futures was fully aware that the customers who were referred to it by Trading Advantage and Levin had been exposed to deceptive and misleading promotional material touting Trading Advantage's classes and seminars and the dramatic profit potential of trading futures.
19. Kingsview Futures charged minimal commissions (e.g., \$1 to \$2 per round-turn) to customers with self-directed accounts. However, these customers – while students of Trading Advantage – paid thousands of dollars to Trading Advantage to learn the supposed "secrets of a successful trader."
20. For example, Customer A was as a self-employed handy man with annual income ranging from \$25,000 to \$50,000 and a liquid net worth of \$50,000. Customer A was a Trading Advantage student for about one year and paid approximately \$65,000 for classes and in-person seminars. Yet, Customer A found actual trading to be more difficult than he had expected and he was unsure if he was fit to trade on his own. Customer A lost \$18,000 through his trading account at Kingsview Futures and paid commission charges of almost \$1,600.
21. Another customer, Customer B, purchased a three-month Trading Advantage membership for \$3,000 and later bought a lifetime membership for an additional \$3,000 fee. While Customer B was a Trading Advantage student, he opened a trading account introduced by Kingsview Futures.

22. Customer B originally thought that Trading Advantage and Kingsview Futures were one and the same firm based on the fact that the person who contacted him from Kingsview Futures was also present on the premises of Trading Advantage and was designated as a Trading Advantage staff member.
23. Trading Advantage personnel never mentioned any other trading firm besides Kingsview Futures to Customer B and, after Customer B opened his account through Kingsview Futures, Kingsview Futures personnel provided him with technical support in using the TA Trader platform.
24. While a student at Trading Advantage, Customer B attended webinars and live online trading classes which involved watching a Trading Advantage instructor make trades based on entrance and exit signals. The instructor encouraged students to make trades following the same signals and suggested that, if they followed the same signals, they too could be successful traders. The instructor often boasted about being a successful trader and claimed to have only had a few losing months in his almost eight years of trading.
25. Customer B received e-mails from Trading Advantage that suggested that students could make substantial amounts of money through trading and would not need to work a normal job. Many of these e-mails included the following or similar claims:
- Ever wonder about that "mysterious" neighbor of yours? You know, the guy you constantly see hauling golf clubs into the trunk of his red Porsche convertible? The guy that controls his own destiny? Such is the life of a proprietary trader...If you think this is the type of lifestyle that you might enjoy, I have great news for you...ANYONE can become a "prop" trader...
  - "If you want to accelerate your path to a career that can provide for your family, has unlimited earning potential and the best hours in the world..."

- "If you desire unlimited earning potential, a very flexible work schedule and peace of mind from controlling your own destiny – then it's time to take the bull by the horns and join us tomorrow."
26. The e-mails included a risk disclaimer at the end of each message. However, the disclaimer's smaller font size and location at the end of the e-mails, along with the e-mails' prominent discussion of profit potential and successful trading, weakened, if not totally neutralized, the effect of the disclaimer.
27. Trading Advantage also maintained a website at [www.tradingadvantage.com], whose home page proclaimed, "WHERE TRADERS COME TO LEARN FROM THE BEST" and stated, "The Trading Advantage Online Campus sets you up for success with online trading resources and real-time coaching from some of the toughest, most successful traders in the world."
28. Another page on the website contained the heading "CHECK OUT OUR STATS" followed by, "Our mentors have some pretty impressive numbers, take a look." On this and the following page, Trading Advantage advertised year-to-date hypothetical trading profits, ranging from \$4,778 to \$21,471, which five of its "mentors" supposedly achieved in the first nine months of 2015.
29. The website contained statements at the end of the "trading stats" section, which indicated that the results represented hypothetical signals and that past performance is not indicative of future results. However, these statements were in a smaller font size, were not prominently displayed, and failed to discuss all the assumptions made in preparing the hypothetical results. Further, even though Trading Advantage claimed that its "mentors" were some of the "most successful traders in the world", the "trading stats" section of Trading

Advantage's website did not include the actual trading results of these mentors but instead used hypothetical trading results.

30. The "Resources" section of the website included a heading entitled, "Brokerages," under which only one IB firm was listed – viz., Kingsview Futures. Trading Advantage also included four different links to various sections of Kingsview Futures' website.
31. Another page on Trading Advantage's website discussed the TA Trader platform and how it could be used by Kingsview Futures' customers. The webpage mentioned a "special arrangement" with Kingsview Futures, where students had access to the platform for \$199 per month – a rate at least \$100 lower than the software developer's rate. The webpage also mentioned Kingsview Futures' "great technical support" along with providing a link to Kingsview Futures' website. Although Trading Advantage included a link to the software developer's website, the software developer's higher platform fees (i.e., \$305 to \$545 per month) and its "limited" support were also specifically noted.
32. Trading Advantage made YouTube videos of Levin and other instructors available on or through its website. While some videos consisted of market commentary, other videos solicited viewers to join Levin's "team" to become "successful" traders. In a video entitled, "The Secrets of Successful Trading," Levin claimed the "secrets" he learned from other traders made him successful and that his experiences taught him "a lot of valuable lessons" that enabled him "to live the life of [his] dreams."
33. Throughout the video, Levin made numerous statements referencing wealth and profitability and claimed successful traders live a life of luxury and fly to Las



Vegas on the weekends in private jets. The video talked about and included pictures of mansions, yachts and Ferraris. Levin claimed he would show the viewer how to "follow in [his] footsteps" and said that to be successful in the futures industry "it's gonna take decisive action on your part and, if you do it, the payoff could be huge."

34. At the end of the video, Levin stood in a trading jacket in front of a luxury car, saying he would give the viewer "all of my knowledge, all of my trading tools, everything I have" to help the viewer become a better trader. He concluded by saying, "now is the time for you to join up, join my team," followed by a screen displaying a quote from Warren Buffet that stated, "I always knew I was going to be rich..." with the telephone number and website address for Trading Advantage posted directly below the quote. The video also displayed other third-party quotes that publicized wealth and success.
35. Trading Advantage included risk of loss disclaimers at the beginning and end of the video. However, the disclaimers were in small font and appeared only briefly on the screen, and did not come close to balancing the references contained throughout the video regarding the potential profits and success someone could achieve by joining Levin and his team at Trading Advantage to learn the "secrets" and knowledge to be a "successful trader."
36. Trading Advantage also posted testimonials on its website. One testimonial located on the home page and in the "Member Testimonials" section of the website featured Kingsview Futures customer, Customer C. The testimonial shows Customer C on a golf course and has him making the following statements, "enjoy the ride – make some money and move on;" trading is "a

great way to create the opportunity to have another line of income in your life or to be just great wealth for yourself," and I am going to start trading for my retired parents as my father is "looking for another line of revenue."

37. The end of the video testimonial included a notice indicating, among other things, that testimonials are believed to be true, but the facts have not been independently audited or verified and that the author of the testimonial was not compensated. However, the video's overall suggestion of Customer C's trading success – coupled with the notice's smaller font size and proximity to the video's end – minimized the effect of the notice.
38. In his testimonial, Customer C specifically claimed, "I've been with Trading Advantage for four years. I'm doing well this year. I've made money every single month except for one..." However, at the time the video was posted to YouTube in August 2013, Customer C's account with Kingsview Futures had only been trading since December 2012 and during this approximate nine-month period, Customer C lost over \$8,000 and incurred losses in seven of those months. Customer C's losses continued through June 2016 totaling more than \$40,000.
39. Since Customer C's trading results conflicted with his testimonial claims, NFA analyzed the overall performance for calendar years 2014 and 2015 of Kingsview Futures' other self-directed accounts whose account holders had also been Trading Advantage students.
40. 235 Kingsview Futures customers with self-directed accounts traded in 2014. 226 of these customers (or 96%) incurred total losses of more than \$1.5 million. Approximately 70% of the customers experienced losses exceeding \$1,000; four customers experienced losses exceeding \$20,000; and one customer

experienced losses exceeding \$70,000. In contrast, only nine customers earned profits, with total gains of approximately \$43,000. During the same period, Kingsview Futures made almost \$257,000 in commissions on these accounts.

41. 217 Kingsview Futures customers with self-directed accounts traded in 2015. 203 of these customers (or 94%) incurred total losses that exceeded \$1.9 million. More than 70% of the customers experienced losses exceeding \$1,000, and approximately 10% of them experienced losses exceeding \$20,000. One customer's losses exceeded \$225,000. In contrast, thirteen customers reported gains in 2015, and only three of them had net profits exceeding \$1,000. During the same period, Kingsview Futures made commissions totaling more than \$208,000 from these customers.
42. NFA asked Sinclair about Kingsview Futures' relationship with Trading Advantage. Sinclair admitted that Kingsview Futures obtained almost all of its self-directed customer accounts from Trading Advantage and acknowledged that Kingsview Futures did not have a referral relationship with any other entity.
43. Sinclair also acknowledged that Kingsview Futures' APs are familiar with the TA Trader software that Trading Advantage uses in its classes. Sinclair stated that Kingsview Futures APs provide on-going technical support and assistance to clients using the platform and confirmed that at least two Kingsview Futures APs maintained a regular presence in Trading Advantage's classrooms.
44. Even though Kingsview Futures obtained the majority of its self-directed customer accounts through Trading Advantage, the firm's compliance procedures did not provide for the review of third-party promotional material. Moreover,



Sinclair admitted that he did not review any of Trading Advantage's promotional material and instead relied on the firm's outside counsel to perform such review.

45. Sinclair and other Kingsview Futures APs regularly received e-mails from Trading Advantage, including many, if not all, of the e-mails that were sent to Customer B, which touted profits while providing inadequate disclaimers about the risk of loss. In addition, Lewis confirmed that he too receives promotional e-mails from Levin and Trading Advantage.

#### **APPLICABLE RULES**

46. NFA Compliance Rule 2-9(a) provides that each Member shall diligently supervise its employees and agents in the conduct of their commodity futures activities for or on behalf of the Member. Each Associate who has supervisory duties shall diligently exercise such duties in the conduct of that Associate's commodity futures activities on behalf of the Member.

#### **COUNT I**

#### **VIOLATION OF NFA COMPLIANCE RULE 2-9(a): FAILING TO DILIGENTLY SUPERVISE THE FIRM'S OPERATIONS AND ACTIVITIES.**

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47. The allegations contained in paragraphs 1 through 46 are realleged as paragraph 47.
48. NFA Compliance Rule 2-9 imposes a duty on an NFA Member to diligently supervise its employees and agents in the conduct of their commodity futures activities for or on behalf of the Member. The Rule also requires Associates who have supervisory duties to diligently exercise their supervisory duties in the conduct of that Associate's commodity futures activities for or on behalf of the Member.

49. A Member's and an Associate's supervisory obligation includes protecting the public from fraudulent advertising and sales solicitations of third parties from which the Member receives customer referrals.
50. As alleged above, Trading Advantage and Levin utilized misleading promotional material to obtain students for their educational trading classes, while promoting and generating leads for Kingsview Futures, which resulted in Trading Advantage students accounting for the vast majority of Kingsview Futures' self-directed accounts.
51. Kingsview Futures and Sinclair – as the person at Kingsview Futures responsible for supervising APs, new accounts and promotional material – had an obligation to ensure that customers referred to Kingsview Futures by Trading Advantage were not influenced to open accounts based on misleading promotional material disseminated by Trading Advantage and, if they were so influenced, to take appropriate steps to remediate the effect of such misleading promotional material by correcting any and all misleading information contained therein.
52. Based on the extremely close relationship between Kingsview Futures and Trading Advantage and the number of referrals that Kingsview Futures received from Trading Advantage, Kingsview Futures knew – or should have taken steps to learn – about the promotional material Trading Advantage used to solicit students and, in turn, customers of Kingsview Futures.
53. In addition, Kingsview Futures should have known of the consistent losses incurred by virtually all of its customers with self-directed accounts – most of whom were Trading Advantage students – which directly contradicted Trading Advantage and Levin's claims of profit and trading success.

54. However, Kingsview Futures and Sinclair failed to inquire of customers referred by Trading Advantage about the promotional material they received from Trading Advantage; failed to determine if such promotional material was misleading; and, if it was misleading, failed to correct the misleading information contained in such promotional material and accurately disclose the risk – and the possible extent – of loss associated with trading futures.
55. Lewis appears to have strategically positioned himself to enjoy the benefits – but not the burdens – of owning both Trading Advantage and Kingsview Futures. Lewis does not live or work in Chicago, where both firms are headquartered, even though ORS lists Kingsview Futures' Chicago office as his branch office affiliation since February 2013. Lewis brought Levin back to Trading Advantage in 2005, to manage and be the face of Trading Advantage, and delegated to Sinclair responsibility for supervising Kingsview Futures on a daily basis, while Lewis managed the firm's "wholesale" IB business from Connecticut.
56. Lewis also admitted that he personally receives Trading Advantage and Levin's promotional e-mails. Therefore, Lewis knew or should have known that Trading Advantage and Levin used deceptive and misleading promotional materials to obtain students for their educational trading classes and then referred them to Kingsview Futures as customers.
57. However, as the AP at Kingsview Futures to whom Sinclair reported and as the individual with ultimate responsibility for supervising the firm and its employees, Lewis failed to ensure that Kingsview Futures and its employees inquired about, and corrected, any misleading information that their customers may have



received from Trading Advantage's promotional material concerning the profit potential and risk of loss of trading futures.

58. By reason of the foregoing acts and omissions, Kingsview Futures, Lewis and Sinclair are charged with violations of NFA Compliance Rule 2-9(a).

### **PROCEDURAL REQUIREMENTS**

#### **ANSWER**

In conjunction with the Agreed Motion to Amend, a written Answer to the Amended Complaint was filed with NFA.

### **POTENTIAL PENALTIES, DISQUALIFICATION AND INELIGIBILITY**

At the conclusion of the proceedings conducted as a result of or in connection with the issuance of this Amended Complaint, NFA may impose one or more of the following penalties:

- (a) expulsion or suspension for a specified period from NFA membership;
- (b) bar or suspension for a specified period from association with an NFA Member;
- (c) censure or reprimand;
- (d) a monetary fine not to exceed \$250,000 for each violation found; and
- (e) order to cease and desist or any other fitting penalty or remedial action not inconsistent with these penalties.

The allegations in this Amended Complaint may constitute a statutory disqualification from registration under Section 8a(3)(M) of the Commodity Exchange Act. Respondents in this matter who apply for registration in any new capacity, including as an AP with a new sponsor, may be denied registration based on the pendency of this proceeding.

Pursuant to the provisions of CFTC Regulation 1.63, penalties imposed in connection with this Amended Complaint may temporarily or permanently render

Respondents who are individuals ineligible to serve on disciplinary committees, arbitration panels and governing boards of a self-regulatory organization, as that term is defined in CFTC Regulation 1.63.

**NATIONAL FUTURES ASSOCIATION  
HEARING PANEL**

Dated: September 12, 2017

By:   
Chairperson

m/cxc/Complaints/Kingsview Amended Complaint (0917)