



January 21, 2015

Federal Court in New York Imposes a \$2.16 Million Penalty and Permanent Trading Bans against Michael A. Kardonick, Gary R. Shapoff, and Atwood & James for Forex Options Fraud and Misappropriation

Kardonick and Shapoff Are Serving Time in Prison after Pleading Guilty to Related Federal Criminal Charges

Washington DC - The U.S. Commodity Futures Trading Commission (CFTC) today announced that a federal court in Rochester, New York issued a consent Order against **Atwood & James, Ltd.** and **Atwood & James, SA** (collectively, Atwood), which operated out of New York and Brazil, and **Michael A. Kardonick**, who maintained multiple residences in Brooklyn; New York; Pembroke Pines, Florida; and Rio de Janeiro, and **Gary R. Shapoff** of Pittsford, New York. Kardonick and Shapoff are currently incarcerated in Federal custody. The court's Order stems from a CFTC civil Complaint that charged the Defendants with fraudulently soliciting retail clients to trade foreign currency (forex) options and charged Atwood and Kardonick with misappropriating client funds (see CFTC Press Release and Complaint [5605-09](#), January 27, 2009). None of the Defendants has ever been registered with the CFTC, as required.

The consent Order, issued by the Honorable Charles Siragusa of the U.S. District Court for the Western District of New York, assesses a civil monetary penalty against the Defendants of \$2,164,059.57, recognizes the criminal restitution award, and permanently bans Atwood, Shapoff, and Kardonick from registering, trading, soliciting and engaging in any CFTC-regulated activity.

The CFTC Complaint alleged that, from at least 2001 to 2008, Defendants fraudulently solicited funds from members of the general public located throughout the world, including the U.S. and the United Kingdom, to trade forex options. Through an internet website and other means, the Defendants made extraordinary and false claims regarding, among other things, Atwood's trading abilities.

In fact, according to the Order, Atwood and Kardonick were not successful traders; no trading accounts in the name of Atwood or for the benefit of Atwood clients have been located; and, there was no evidence that Atwood had or has a relationship with a clearing firm. The only known trading accounts were Kardonick's personal trading accounts, which from 2003 through September 2008 sustained net losses of approximately \$1.7 million trading commodity futures and options.

The court's Order also finds that Kardonick and Shapoff failed to disclose to clients that both have criminal convictions for mail and wire fraud, and that Shapoff was the subject of two CFTC reparations actions in which the allegations included misrepresentation, misuse of customer funds, nondisclosure, and order execution.

Related Criminal Acton

In a related criminal action brought by the U.S. Attorney's Office for the Western District of New York, Kardonick and Shapoff pleaded guilty to charges of tax evasion and money laundering and are serving prison sentences of 120 months for Kardonick and 60 months for Shapoff.

A criminal restitution order of \$2,164,059.57 was issued against Kardonick and Shapoff, jointly and severally.

The CFTC cautions victims that restitution orders may not result in the recovery of money lost because the wrongdoers may not have sufficient funds or assets. The CFTC will continue to fight vigorously for the protection of customers and to ensure the wrongdoers are held accountable.

The CFTC appreciates the cooperation of the U.S. Attorney's Office, Western District of New York, the FBI Field Western District of New York field office, the Brazilian Comissão de Valores Mobiliarios, and the U.K. Financial Conduct Authority in this matter.

CFTC Division of Enforcement staff members responsible for this case are James H. Holl III, Katherine M. Driscoll, Kara Mucha, Michelle Bougas, Rick Glaser, and Gretchen L. Lowe.

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CFTC's Foreign Currency (Forex) Fraud Advisory

The CFTC has issued several customer protection [Fraud Advisories](#) that provide the warning signs of fraud, including the [Foreign Currency Trading \(Forex\) Fraud Advisory](#), which states that the CFTC has witnessed a sharp rise in Forex trading scams in recent years and helps customers identify this potential fraud.

Customers can report suspicious activities or information, such as possible violations of commodity trading laws, to the CFTC Division of Enforcement via a Toll-Free Hotline 866-FON-CFTC (866-366-2382) or [file a tip or complaint](#) online.

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