

By Lynne Marek April 09, 2014

A federal receiver appointed to dismantle the failed futures investment fund administrator AlphaMetrix Group LLC sued the company's top officers, alleging they used Chicagobased AlphaMetrix as their "personal piggy bank."

The complaint filed in U.S. District Court for Northern Illinois on April 7 against five AlphaMetrix officials, including CEO Aleks Kins, seeks more than \$19 million, the bulk of which is money owed to the company's trading adviser partners and creditors.

The company's collapse is one in a string of futures industry firm failures, including the MF Global Inc. and Peregrine Financial Group Inc. debacles, that have wracked the industry over the past several years, raising questions about whether there is adequate oversight of the futures market.

Chicago-based CME Group Inc., which operates the largest

futures exchange in the world, also acts as a regulator of the industry, as does the Chicago-based National Futures Association, both supplementing oversight by the <a href="Commodity Futures Trading">Commodity Futures Trading</a> Commission. The NFA, which had direct oversight of AlphaMetrix, and CME hired AlphaMetrix in late 2012 to build a software system that would allow the regulators to better monitor the industry. That same year, CME board member Dennis Chookaszian loaned money to the company.

The receiver, Barnes & Thornburg attorney Deborah Thorne, alleges in the lawsuit that "selfdealing" by Mr. Kins, inappropriate company loans to most of the officers and mismanagement led to the company's collapse last year. The officers named as defendants also include Chief Risk Officer Charley Penna, Chief Operating Officer David Young, Chief Strategic Officer Geoff Marcus and Chief Financial Officer George Brown.

"In clear breach of their duty of loyalty, the defendants used (AlphaMetrix) and/or allowed others to use (the company) as their own personal piggy bank, taking out personal loans from (AlphaMetrix) and having it pay personal expenses at the same time (it) was teetering on the brink of insolvency," the Chicago-based receiver said in the court filing.

Kaye Scholer attorney Jonathan Green, who is representing Mr. Young, refuted the allegations.

"David Young was a diligent executive who faithfully discharged his obligations as an officer of Alphametrix every day he worked there," said Mr. Green, who is based in New York. "Any suggestion to the contrary is completely unsupported by the facts, as we will demonstrate in defending this lawsuit."

Attorneys for the other officers didn't respond to requests for comment or couldn't be reached for comment today.

Now-defunct AlphaMetrix monitored and processed investments by customers in pooled commodity trading accounts. The company began to unravel last year when it was unable to make

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payments to creditors, specifically San Francisco-based White Oak Global Advisors LLC, and to follow through on rebates owed to asset managers making investments for customer accounts.

Among AlphaMetrix's alleged missteps were spending more than \$5 million on a new technology system that one of the officers called a "failure," and extravagant costs for AlphaMetrix investor summits in Miami, Fla., and Monaco where investors would meet advisers. Mr. Marcus was in charge of the conferences, the suit said.

The lawsuit also alleges that Mr. Kins used the company as a "full employment opportunity for his family," hiring them to AlphaMetrix posts and outsourcing some AlphaMetrix work to other family members. His father, Juris Kins, and his law firm Davis McGrath were appointed as outside counsel; his mother's company, Northlight Productions, also was retained; his brother Mikus Kins was hired as chief business development officer; and the recruiting firm of his brother John Kins also was retained.

AlphaMetrix also extended \$1.5 million in personal loans to Mr. Kins, Mr. Brown, Mr. Marcus and Mr. Penna, with Mr. Kins' debt totaling \$1.18 million, the lawsuit alleges, noting that the agreements were amended at times to the officers' benefit.

#### TRAVEL TO THE CAYMAN ISLANDS

In addition, Mr. Young, Mr. Brown and Mr. Penna acquiesced to Mr. Kins' use of company money to pay for questionable personal expenses, such as his family's travel to the Cayman Islands, according to the lawsuit.

When the company began to have "serious cash flow problems" early last year, Messrs. Kins, Penna, Young and Brown authorized improper fees to AlphaMetrix accounts and misused funds that were owed to the company's asset manager partners and creditors, the lawsuit alleges.

The receiver is seeking damages of \$10 million owed to commodity fund managers and \$9 million owed to creditors

After regulators at the National Futures Association became aware of the company's financial problems last year and pushed Mr. Kins to disclose the troubles to customers, investor redemptions accelerated and led to a liquidation of funds in October. The following month, the Commodity Futures Trading Commission sued AlphaMetrix, alleging the company committed fraud and "misappropriated at least \$2.8 million." That case is pending. The receiver was appointed as a result of that case.

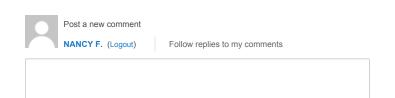
In response to the CFTC lawsuit, also filed in U.S. District Court for Northern Illinois, lawyers for AlphaMetrix, including Juris Kins, **denied wrong-doing**.



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