

CFTC takes VOS Capital Management and Dominick Carducci to Court over FX fraud

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The United States Commodity Futures Trading Commission (CFTC) has taken action against another fraudulent Forex scheme. On September 9, 2019, the US regulator filed a Complaint against Dominick Vincent Carducci and his VOS Capital Management, LLC, with the New York Southern District Court.

According to the CFTC Complaint, from at least August 2016 through in or about September 2018 (the Relevant Period), Dominick Vincent Carducci, individually and as agent and principal of VOS Capital Management, LLC, operated a fraudulent scheme in which they solicited, accepted and misappropriated funds for a pooled investment vehicle in off-exchange leveraged or margined Forex contracts.

Carducci, as an officer and agent of VOS Capital, is alleged to have knowingly made fraudulent and material misrepresentations and omissions, in both conversations and written communications, about his FX trading and returns to persuade at least thirty individuals (the Pool Participants) to transfer at least \$1.1 million to the defendants for the purpose of participating in a pooled forex investment vehicle.

To lure prospective Pool Participants, the defendants represented, inter alia, that they had made large profits for themselves and Pool Participants from trading forex; that they maintained a forex trading account with a registered foreign exchange dealer that had \$12 million under their management; that the defendants would trade forex on behalf of Pool Participants; that Pool Participants would realize profits of up to 18% per month on their investments without losses; and that upon request Pool Participants could withdraw the funds they had invested.

According to the allegations, VOS Capital and Carducci failed to trade Pool Participants' funds as promised and, instead, misappropriated most of their money. Upon the defendants' direction, Pool Participants deposited their funds into VOS Capital's bank account. The defendants used the majority of those funds to pay Carducci's personal expenses, and to support Carducci's lavish lifestyle by, among other things, acquiring luxury automobiles and paying for international travel. The remainder of the funds was paid to some Pool Participants, in the manner of a Ponzi scheme.

The CFTC says that VOS Capital and Carducci have engaged, are engaging, or are about to engage in acts and practices in violation of a number of sections of the Commodity Exchange Act, and rules of Commission Regulation, which prohibit fraud in connection with forex transactions and fraud by a commodity pool operator (CPO).

In addition, VOS Capital acted at all times during the Relevant Period as a CPO by operating or soliciting funds for a pooled investment vehicle that is not an eligible contract participant (ECP) and that engages in retail FX transactions, without being registered with the Commission as a CPO, as required by the Act and Regulations. In particular, VOS Capital's failure to register as a CPO violated Sections 2(c)(2)(C)(iii) (I)(cc) and 4m(1) of the Act, 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc), 6m(1) (2012), and Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2018).

Carducci solicited funds for participation in a pooled investment vehicle for the purpose of trading in off-exchange leveraged or margined forex contracts, while associated with VOS Capital as an officer, employee, or agent, without being registered with the Commission as an associated person (AP) of

VOS Capital, as required by the Act and Regulations. Specifically, Defendant Carducci's failure to register as an AP of a CPO violated Sections 2(c)(2)(C)(iii)(I)(cc) and 4k(2) of the Act, 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc), 6k(2) (2012), and 17 C.F.R. § 5.3(a)(2)(ii).

The Commission says it brought this action to enjoin the unlawful acts and practices of Carducci and VOS Capital and to compel their compliance with the Act and the Regulations. In addition, the Commission seeks civil monetary penalties and remedial ancillary relief, including, but not limited to, trading and registration bans, restitution, disgorgement, rescission, pre- and post-judgment interest, and such other and further relief as the Court may deem necessary or appropriate.

The regulator notes that, unless restrained and enjoined by the Court, the defendants are likely continue to engage in the acts and practices alleged in the Complaint.