

Locking the Barn Door

By Michael Russak

Note: The opinions expressed in this article are solely those of the author and may or may not agree with those of Futures Truth.

It was Monday morning and after talking with my dear friend and mentor, George Pruitt, publisher of this magazine, and my trading partner Gregg Jewell, I knew all hell had broken loose. They both reported an abnormal number of trades requiring exits because of stops being hit and entries because of signals getting elected not occurring in the usual manner at all.

After the bankruptcy filings and court proceedings by MF Global earlier that morning, at first all calls to their trade desk went unanswered. In fact, efforts to get any kind of coherent explanation – much less actual help – had led into a maze of frustrations and a veritable stonewall of evasions.

Here is my own account of what occurred when I tried to inquire about a small portion of my own segregated funds with them.

- When finally I did succeed in getting through to MF Global on the phone, I was merely given a website said to contain further information and a phone number to call. The information proved unhelpful and the person who answered the phone had no suggestions to offer me since my futures based account was not under SIPC aegis.
- I next called the NFA in hopes to obtain some information concerning my customer rights in these difficult circumstances. The person to whom I spoke with merely read a prepared statement to the effect that the NFA had no jurisdiction in the matter and that the proper entity to call was the CME group.
- The call to the CME group proved equally unhelpful to me since I was told the CME would discuss only trades that have not yet been

unwound. For help with customer funds, I was referred back to MF Global's website for help with respect to customer funds.

- Calling the phone number listed on the website once again, I was reunited with the same person who had been unable to help me previously for funds unprotected by SIPC, and who repeated what she told me earlier, but added that she would look into the matter and call me back. Needless to say, the call back never came.

The communications here remind me of a tale of two hunters out shooting. Suddenly, one of them collapsed with his eyes rolled back and seemed to stop breathing. The other hunter called 911 and shouted, "I think my friend just died. What should I do?"

"Don't panic," the operator told him. "The first thing is to make sure he's dead."

There was a silence at the other end, and then the operator heard a shot.

"O.K.," the hunter said. "Now what?"

As I worked my way through the mindless round robin in pursuit of answers to the MF Global fiasco, it seemed to me as futile and nonsensical as the operator trying to communicate to the panicked hunter. But MF Global's communications were not the only thing that left much to be desired. Apparently, MF Global's contingency plan was of a piece with the blatant disregard of clients well being that was just then being uncovered and which has since been underscored by allegations of misappropriation of funds.

Another irritating aspect of the above runaround to me personally had been the failure of the NFA to offer any substantive help, or even a practical suggestion. The NFA, as is well known, was established to help protect customers and given a few teeth, or at least a molar or two for chewing on the facts, to carry out its mandate. Ironically, while MF Global was sailing along on its nefarious course with not even a raised NFA eyebrow, small CTAs such as the one George works for are constantly prodded by questions about irrelevant trivia, and are mired in reams of exhausting paperwork. They are periodically bombarded by teams of

auditors that spend weeks at a time reviewing their books. The inescapable conclusion, though George and many others I know have labored loyally to escape it, is that the NFA auditors seem more concerned with making a show of how meticulous they are than with putting their time into a real review of the Madoffs and Corzines of the world. The question that persists is just whom are these regulators really protecting?

A Rude Awakening

Having been raised to respect the banking profession and to assume that the American business community is essentially well-intentioned, albeit motivated by profit, it has been very difficult for me to permit my eyes to be opened repeatedly by the horrifying predations being committed by today's corporations –in this case, in the securities industry – against ordinary people, both in the U.S. and in other countries. They seem to have stumbled onto a combination that may well prove invincible: the purchase of our elected officials and regulators through campaign and other contributions, if not literal bribery, augmented by control over the news media by outright ownership at times, and winked at by a Supreme Court that seems now to have been corrupted by the same partisan considerations that have destroyed the integrity of our legislatures – both federal and state.

Not all, but some of the ultra-wealthy in this country have become so obsessed by the accumulation of ever-greater wealth and power that it has become an addiction, in fact if not in name. And, like a drug addict in the last throes of his illness, they would go to almost any extremes to add a few more pennies of profit to the billions they already have, because they have lost all sense of proportion, not to say decency. To paraphrase Francis Bacon in speaking of a rich nobleman who fit the description of today's corporate barons, "He may not be an evil man, but he would burn your house down to boil his eggs."

This recent MF Global debacle is hurting many honest traders who are now either stranded with trades they cannot unwind, frustrated by opportunity loss, or in some cases face the danger of having their so-called protected and segregated funds rendered valueless. Sad to say, especially for the ethical practitioners like George and the many other honest traders I know,

is that whatever the outcome, and hopefully it will be positive in the end, this incident will leave the industry with a black eye that will take a long time – and probably go through many colors – before it heals.

So what can be done to prevent a recurrence of such voracious skullduggery?

A Modest Proposal

This solution I propose here is really a bit modest, at least in comparison with the scope of the problem it is intended to solve. Bankers, including the MF Global crew, have given endless evidence that they cannot be trusted to meet their fiduciary responsibilities to their customers in comparable degree to the care they lavish on their own bottom lines and personal pocketbooks. The logical remedy, then, would seem to be legislation requiring that customers' trading funds be segregated at a bank of each customer's choosing, and not pooled with other customer funds, as is the current, manifestly ineffective practice. The result would be to leave customer capital safer and under FDIC protection, as a really quite sensible precaution, moving forward.

Simply speaking, such legislation, The Russak-Pruitt-Hill (RPH) measure would permit only those arrangements under which a customer's funds would be held in a private account at a bank of the customer's own choosing (or possibly a broker-approved banking institution), with a hold on the account for trading purposes, but where the customer has the right to have the account unlocked upon 48-hour notice to the broker window. This arrangement would restore the power, control and safety of the funds to the customer. Since the banks are not allowed to use customer funds anyway, the honest bankers (and traders and brokers) lose nothing, while the customers gain from the greater transparency and safety.

These steps, while a measure in the right direction, can hardly be expected to remedy the great dilemma we all face as a result of the current disproportionate greed and irresponsibility of predatory type bankers, much less the prevailing corporate culture that afflicts many so greatly.

Conclusion

When I decided to entitle this article, “Locking the Barn Door,” I was well aware of the source of that expression and its implication of taking a precaution too late to prevent a loss. And in that sense, it is a fitting enough title as regards to the MF Global failure and the many other abuses of all sizes that have already occurred. But taking all of these abuses in total, they are not nearly as important as the disasters that lay ahead – not as potential problems but as inevitable ones – as long as the door remains unlocked. The problems we face are enormous, in our society and economy alike. If they are to be solved at all, it is not likely to be by sweeping measures that bring to pass sweeping changes, but rather by a series of smaller measures that gradually move us back onto a better path and a safer one for most of us. For the safety of all trading funds, let us close the barn door now by swiftly enacting the Russak-Pruitt-Hill (RPH) measure.

The futures trading industry is very much needed and has limitless potential. However changes need to be made that assures the customer that his funds will be guaranteed and at his disposal at any time he desires.

We urge you not to procrastinate and kindly sign this petition for the future safety of your trading funds. Please click on the link below to sign our petition.

<http://www.futurestruth.com/petition.html>