

UNITED STATES OF AMERICA  
Before the  
COMMODITY FUTURES TRADING COMMISSION

MICHAEL CLARK	:	
	:	
v.	:	CFTC Docket No. CRAA 01-02
	:	
NATIONAL FUTURES ASSOCIATION	:	ORDER DENYING STAY
	:	

Michael Clark has submitted a petition seeking reconsideration of a March 30, 2001 delegated authority order dismissing his motion for a stay of the National Futures Association’s (“NFA”) March 13, 2001 decision denying his application for registration as a floor trader. Clark’s petition notes that he has cured the procedural defect noted in the March 30 order.<sup>1</sup> It also argues that the defect in his initial submission was the result of misleading information provided in NFA’s March 13, 2001 decision. NFA’s opposition to Clark’s petition emphasizes that Clark has an independent responsibility to consult and comply with applicable Commission rules. In addition, NFA notes that Clark’s motion for a stay failed to make any of the showings required by Commission Rule 171.22.

We need not resolve Clark’s claim that NFA bears primary responsibility for his initial failure to submit a valid notice of appeal along with his stay petition. As NFA notes, Commission Rule 171.22 places the burden of persuasion on the moving party and Clark has failed to make a persuasive showing on any of the factors listed in the rule. In these

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<sup>1</sup> The March 30 order held that Clark has failed to meet Rule 171.22(b)’s requirement that a notice of appeal accompany a petition for stay. The record shows that Clark has submitted both a notice of appeal and the required \$100 filing fee.

circumstances, we grant Clark's motion for reconsideration and deny his petition for a stay as unsupported by the record.

At the close of his petition for reconsideration, Clark notes that he has not received a copy of the transcript of NFA's hearing and requests (1) "the actual date deadlines for all needed filings in this matter" and (2) service of documents on him at an e-mail address. These requests are denied. The Commission's Proceedings Clerk is directed to provide Clark with a copy of Part 171 of the Commission's rules. Clark, of course, is entitled to retain counsel to assist him with understanding and complying with the rules. If he chooses to represent himself, Clark should familiarize himself with the rules and make his submissions within the required deadlines. Failure to comply with the rules may result in the imposition of sanctions, including the dismissal of his appeal

Accordingly, Clark's petition for reconsideration is granted; his petition for stay is denied; and his request for relief from applicable procedural requirements is denied.

IT IS SO ORDERED.

By the Commission (Acting Chairman NEWSOME and Commissioners HOLUM, SPEARS, and ERICKSON).

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Jean A. Webb  
Secretary to the Commission  
Commodity Futures Trading Commission

Dated: May 10, 2001