



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
OFFICE OF PROCEEDINGS
PROCEEDINGS CLERK

AUG 13 10 17 AM '98

ALCO TRADING COMPANY, INC. and
AMERICAN CANADIAN MANAGEMENT CO.,
INC.

Complainants,

v.

FIRST AMERICAN DISCOUNT
CORPORATION

Respondents.

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CFTC Docket No. 98-R082

ORDER DISMISSING COMPLAINT

On June 17, 1998, the Director of the Office of Proceedings forwarded this case for adjudication.¹ Upon a review of the record, the Court had reason to believe that both complainants initiated bankruptcy proceedings shortly after the causes of action underlying this proceeding had accrued. Under the prevailing construction of the Bankruptcy Code, the initiation of the complainants' bankruptcy proceedings transferred all legal and equitable interests in accrued causes of action from the complainants to the bankruptcy trustee.² As a result, it appeared that the complainants lack standing to assert the

¹ Notice and Order, dated June 17, 1998.

² Order to Show Cause Why the Complaint Should Not Be Dismissed for a Lack of Standing, dated July 31, 1998 ("Order to Show Cause"), at 10-13. The Court has attached this Order.

claims at issue in this case. Accordingly, the Court stayed the proceeding on June 18, 1998 in order to relieve the parties of unnecessary procedural burdens while the Court considered the matter further.³

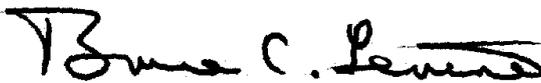
On July 31, 1998, the Court directed complainants to show cause why their Complaint should not be dismissed on grounds that they lost standing when they filed for bankruptcy.⁴ Complainants filed the following response on August 12, 1998.

"In answer to the ORDER TO SHOW CAUSE, dated July 31, 1998, we must conclude, that we can not show any reason why the complaint should not be dismissed, since apparently only the Trustee has the right to pursue this matter."⁵

Accordingly, the Complaint is **DISMISSED** without prejudice.

IT IS SO ORDERED.

On this 13th day of August, 1998



Bruce C. Levine
Administrative Law Judge

³ Order, dated June 18, 1998.

⁴ Order to Show Cause at 17.

⁵ Response to Order to Show Cause, dated August 10, 1998 (emphasis in original).