U.S. COMMODITY FUTURES TRADING COMMISSION
Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581

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JOSEPH BARRIALES, Complainant v. BARKLEY FINANCIAL CORP., and REYNALDO JOSE PEREZ, Respondents	CFTC Docket No. 97-R049

ORDER DISMISSING COMPLAINT

After complainant had proven unavailable for over a month to set up a conference call, and after complainant's attorney informed the undersigned that complainant actually was living in Spain and not the U.S., complainant was ordered to provide proof of his residency in the United States. The Order directed complainant to provide his itinerary (with dates of his departure and expected return) and to provide a complete explanation for his absence. Because of a concern that complainant might no longer be a resident, he was also ordered to produce tax documents establishing the country he claims as residence. Failure to comply with the Order, complainant was warned, would result in dismissal.

The reply to the Order was submitted by complainant's counsel. It contains no documentary proof of complainant's claimed residence in the United States except an INS Resident Alien card, which establishes only that he has been granted residency, not that he is in fact resident in the U.S. An address in Miami, Florida, is asserted by counsel, but the only documentary evidence of an address is a Florida driver's license that has what counsel admits is a "previous" home address for complainant. Ignoring the express instructions of the Order, the submission does not provide specifics of why complainant is in Spain ("family related trip to deal with several important personal and family related matters"), does not provide dates for complainant's departure or expected return ("within the next several months or earlier"), and does not provide any tax documents establishing his claimed country of residence ("they are in the United States"). Despite the fact that the submission contains factual allegations, it is unverified. Furthermore, complainant's signature is not to be found on the document.

It is determined that complainant has failed to comply with the Order. Accordingly, as warned in the Order, dismissal is warranted. However, in view of a settlement that has now been

reached between the parties, the complaint will be dismissed based on the parties' agreement rather than as a sanction.

Based on the settlement reached in this matter, the complaint is DISMISSED since there is no longer a financial dispute between the parties. Respondents' counsel has confirmed that the respondents will honor the settlement agreement. If the agreement is breached, however, complainant is free to file a breach of contract claim in an appropriate court of law.

Dated: January 16, 1998

Joel R. Maillie

Joel R. Maillie
Judgment Officer