



U.S. COMMODITY FUTURES TRADING COMMISSION

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BOND HOLDERS, INC.,

Complainant,

v.

GERALD ALONZO DRAPER a/k/a DON DRAPER,  
A.G. EDWARDS & SONS, INC.,  
JANE MOODY PARKER and  
AUGUST FRANK YANKE,

Respondents.

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CFTC Docket No. 03-R074

**ORDER OF DISMISSAL**

Twice during the month of August, complainant Bond Holders, Inc. sent word that it did not intend to prosecute its case at the scheduled oral hearing.<sup>1</sup> After first becoming aware of this, we warned the complainant that a failure to submit a timely notice of intent to participate in the scheduled hearing might result in the dismissal of its complaint.<sup>2</sup> Bond Holders responded by stating that it would no longer "participate" in this proceeding.<sup>3</sup> Taking

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<sup>1</sup> Motion to Dismiss Case Without Prejudice With Leave to File in State Court or With the NFA and/or Motion for Disqualification of Judge, received September 1, 2004; Answer to Judge's Order, dated August 18, 2004, dated August 26, 2004.

<sup>2</sup> Order, dated September 2, 2004, at 4.

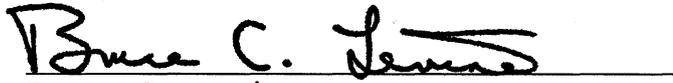
<sup>3</sup> Motion, dated September 10, 2004, at 2. Bond Holders also requests, for the third time, that we dismiss its complaint without prejudice. Id. As we explained twice before, 17 C.F.R.

(continued...)

the firm at its word, we conclude that it will not send a representative to the hearing. The complainant's refusal to prosecute its case precludes us from awarding it damages.<sup>4</sup> Accordingly, we **DISMISS** Bond Holders' complaint **WITH PREJUDICE**.

**IT IS SO ORDERED.**

On this 16th day of September, 2004



Bruce C. Levine  
Administrative Law Judge

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(..continued)

§12.21(a) prevents us from granting a complainant's motion for voluntary dismissal unless the respondents have consented in the form of a written stipulation. Order, dated September 2, 2004, at 1; Order, dated July 14, 2004, at 2 n.5. Bond Holders, once again, did not file such a stipulation. Accordingly, we again **DENY** the motion to dismiss Bond Holders' complaint without prejudice.

<sup>4</sup> The factual allegations underlying Bond Holders' claims of malfeasance are disputed. See Respondents' Pre-Trial Brief, received September 8, 2004, at 2-11. Consequently, Bond Holders has shirked its evidentiary burden and made it impossible to conclude that the burden of proof has been satisfied.