## U.S. COMMODITY FUTURES TRADING COMMISSION



Three Lafayette Centre 1155 21st Street, NW, Washington, DC 20581

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CLARENCE A. FRESE,	*			8	3	നള്
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Complainant,	, <b>*</b>			<u>8</u> 60	1	;;; <u>;</u> ;
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<b>v.</b>	*	CFTC	Docket	иод∄98	3- <b>R</b> 16	5
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ULRICH GERD GARBE, CARLO SCOTT	*					
KEARSE-MCNEIL, LFG, L.L.C., M.G.	*					
GLOBE TRADING COMPANY, INC., and	*					
VICTOR JAMES SMITH,	*					
	*					
Respondents.	* *					
	*					

## ORDER OF DISMISSAL

Oral hearing in this matter is set to commence on Monday, April 5, 1999 at the United States Tax Court in Detroit, Michigan. Order Setting Time and Place of Oral Hearing, dated February 22, 1999. The parties have filed a stipulation of dismissal. Stipulation, filed March 12, 1999. Accordingly, the oral hearing is CANCELED, the complaint is hereby DISMISSED

with prejudice and this matter is terminated in its entirety. 
IT IS SO ORDERED.

On this 15th day of March, 1999

Bruce C. Levine

Administrative Law Judge

<sup>1</sup> Complainant Clarence A. Frese informed the Court that he wished to withdraw his complaint in its entirety, and to that end, he entered into the stipulation with respondents Carlo Scott Kearse-McNeil, LFG, L.L.C., M.G. Globe Trading Company, Inc., and Victor James Smith to dismiss the entire proceeding with prejudice. Defaulted respondent Ulrich Gerd Garbe, who has not participated in this litigation in any respect, was not a party to the While the consent of all of the parties is stipulation. generally required for a voluntary dismissal at this stage of the proceeding, 17 C.F.R. §12.21(a), the Court will not deny the complainant the relief that he seeks for lack of a defaulted and non-participating party's consent. 17 C.F.R. §12.304(m); cf. Hall v. Diversified Trading Systems, Inc., [1992-1994 Transfer Binder] Comm. Fut. L. Rep. (CCH) \$\( 26, 131 \) at 41,750-52 (CFTC July 7, 1994).