



U.S. COMMODITY FUTURES TRADING COMMISSION

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

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OFFICE OF
PROCEEDINGS

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DAVID GLEASON,
Complainant,

v.

EMBASSY TRADING GROUP, INC.,
JEFFREY BRYAN GHELERTER, and
JOSEPH STEPHEN HUDSON,
Respondents.

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CFTC Docket No. 98-R131

ORDER OF DISMISSAL

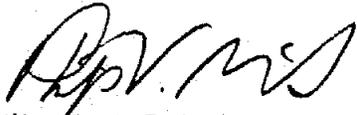
Upon the filing of a joint stipulation of dismissal, this matter was dismissed by an Order of Dismissal dated October 27, 1998. Shortly afterwards, complainant informed this office that his decision to withdraw the complaint had been prompted by his belief that replying to respondents would be too time-consuming and his fear that respondents would sue him as they had previously threatened. Complainant related that Global's owner Jeffrey Ghelerter had angrily threatened to financially "ruin" him, and that in a subsequent conversation respondents' attorney Gary Sinclair had threatened to sue him for slander. Based on concerns of fairness raised by Gleason's statement, the Order of Dismissal was vacated, and a telephone conference was conducted to examine the circumstances around Gleason's decision to agree to terminate this proceeding.

Gleason and Sinclair participated in the conference. Gleason did not offer additional details, and reiterated that he had decided, in consultation with his wife, to drop the case because he was concerned that preparing discovery replies would be too time-consuming and because he was concerned about a potential countersuit. Gleason also stated that although he has a lawyer for other matters, he did not consult with his lawyer for this matter. Sinclair asserted that he merely had told Gleason that from his perspective as respondents' lawyer he believed that Gleason's case was "weak," and that respondents might sue Gleason for damages under the terms of the customer agreement, in the event that Gleason lost his reparations case. Sinclair also asserted that when he spoke to Gleason he had not been aware of

Ghelerter's conversation and that he would not have threatened a slander law suit, because Gleason's allegations were written, not spoken.

Ghelerter's threat may have been intemperate and exaggerated, but it was essentially a garden variety response to a threat of a law suit, as was Sinclair's adversarial assertion that Gleason's claim was weak. As such, these statements – considered separately and together in the particular factual circumstances of this case – do not rise to the level of coercion that would justify disturbing the parties' agreement to terminate this proceeding. Accordingly, this matter is DISMISSED.

Dated December 8, 1998.



Philip V. McGuire,
Judgment Officer