

UNITED STATES OF AMERICA
BEFORE THE
COMMODITY FUTURES TRADING COMMISSION

H. Bruce McIver,
Complainant,

v.

Merrill Lynch, Pierce, Fenner &
Smith, Inc. and Bradley Ray Rupp,

Respondents.

CFTC Docket No. 97-R123

FILED

FEB 23 9 37 AM '98

OFFICE OF PROCEEDINGS
PROCEEDINGS CLERK

DISMISSAL OF COMPLAINT

On February 3, 1998, respondents filed a motion for default judgment pursuant to Commission Regulation 12.35, 17 C.F.R. § 12.35, based on complainant's failure to respond to discovery requests and failure to comply with discovery Orders. No response to that motion has been filed. That motion is hereby **GRANTED**.

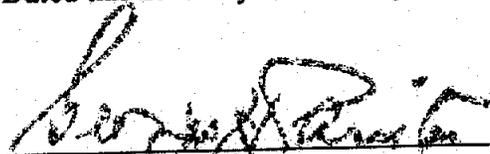
The complaint in this matter was filed on July 7, 1997, and was perfected on August 21, 1997. Since filing an addendum to the complaint on September 16, 1997, complainant has taken no action to further his claim.

Respondents' answer was filed on November 3, 1997. This Court put out a pre-hearing Order on November 10, 1997, requiring all parties to initiate discovery on or before December 9, 1997, and requiring all parties to file pre-hearing memoranda on or before January 12, 1998. Respondents filed their discovery requests on November 24, 1997, and filed their pre-hearing memorandum on January 13, 1998.

Complainant failed to serve any response to discovery requests, and initiated no discovery of his own. On January 5, 1998, respondents filed a motion to compel discovery, which was granted by this Court on January 14, 1998. By Order of that date, complainant was required to serve his answers to discovery on or before January 28, 1998. To date, complainant has not complied with that Order, has not filed the required pre-hearing memorandum, and has apparently abandoned his claim altogether.

Based on complainant's failure to respond to discovery requests, his disregard for the Orders of this Court, and his apparent abandonment of his claim, the complaint in this matter is hereby **DISMISSED WITH PREJUDICE** pursuant to Commission Regulation 12.35(e), 17 C.F.R. § 12.35(e).

Dated this 23rd day of February, 1998

A handwritten signature in black ink, appearing to read "George H. Painter", written over a horizontal line.

George H. Painter
Administrative Law Judge