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

OFFICE OF
PROCEEDINGS

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WILLIAM F. POCHIK, Complainant v. KEITH MARK BERKSON, KENCO COMMODITIES, INC., and KENNETH J. WOLF, Respondents	)	CFTC Docket No. 97-R075

FINAL DECISION

Complainant filed his reparations complaint selecting a voluntary decisional proceeding, a choice concurred in by the respondents. In a voluntary proceeding, the parties submit their dispute on the papers only, waiving their right to present oral testimony. In addition, the judge is not authorized to conduct discovery on his own motion (see Rule 12.34), leaving the parties solely responsible for the development of the record. When the record is closed, the judge issues a Final Decision containing only a conclusion whether any violations have been proven, and, if so, a reparation award for any damages caused by such violations (see Rule 12.106(b)). The decision does not contain findings of fact or other evidentiary evaluations by the judge. The Final Decision is not appealable either to the Commission or to any U.S. Court of Appeals (see Rule 12.106(d)).

In this matter, the record consists of the complaint, additonal materials submitted in support of the complaint, answers filed by respondents, the answers to complainant's discovery requests, and verified statements submitted by complainant and respondent Berkson.

Upon careful consideration of the record, it is concluded that complainant has failed to establish any violative conduct on the part of respondents. Accordingly, the complaint is DISMISSED.

Dated: February 26, 1998

Joel R. Maillie
JOEL R. MAILLIE
Judgment Officer