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In the Matter of

DAVID YOST and UR-LINK,

Respondents.

CFTC Docket No. 04-07

ORDER OF DISMISSAL

Recently, the Division of Enforcement notified us that the Commission had concurred with a recommendation to dismiss the complaint against respondent UR-Link in this matter.[1] The notice was vague on the issue of whether there had been steps taken to formalize the dismissal.[2] Consequently, we ordered the Division to report, in camera, on the status of the recommended act.[3] Today, the Division submitted the required report and expressed the opinion that the Commission's endorsement of the recommendation to dismiss had the effect of a more traditional order.[4] We are not so sure.[5]

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[1] Division of Enforcement's Notice Concerning its Restitution Claim Against David Yost, dated October 12, 2004, at 3.

[2] Order, dated October 26, 2004.

[3] Id.

[4] Letter from Diane M. Romaniuk to the Court, dated October 27, 2004 (filed in camera).

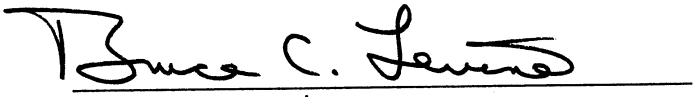
[5] The Seriatim Concurrence that the Division attached to its in camera filing does not have the operative language usually found

(continued..)

At the risk of committing harmless error, we presume that there is no effective order dismissing UR-Link from the proceeding and find that the Division does not intend to prosecute its case against the firm.[6] Given these circumstances, a partial dismissal of the complaint is appropriate.[7] Accordingly, we **DISMISS** the complaint against UR-Link.

IT IS SO ORDERED.

On this 27th day of October, 2004



Bruce C. Levine
Administrative Law Judge

(..continued)
in quasi-judicial orders terminating a proceeding. In addition, the Commission has issued no public order concerning the recommended dismissal.

[6] The Division asked for a dismissal, thinks it received one and clearly indicates that it does not intend to further prosecute UR-Link. Id.

[7] When it clearly appears that additional fact finding will lead to a procedural dead end, dismissal is appropriate. In re Global Link Miami Corp., [1996-1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶27,391 at 46,786-87 (ALJ June 26, 1998), rev'd on other grounds, [1998-1999 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶27,669 (CFTC June 21, 1999). Here, there would be such a dead end given the Division's decision not to prosecute.