UNITED STATES OF AMERICA Before the COMMODITY FUTURES TRADING COMMISSION

C.F.T.C.

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OFFICE OF PROCEEDINGS PROCEEDINGS CLERK

CFTC Docket No. 05-R061

v. STEPHEN MARK SMITH

LINDA TALBOT KEITH

ORDER PURSUANT TO DELEGATED AUTHORITY

The Administrative Law Judge ("ALJ") issued an initial decision on September 12, 2006 finding Steven Gordon Smith ("Smith") and three corporate respondents jointly and severally liable to complainant Linda Talbot Keith ("Keith") for \$54,643.11 for fraudulent solicitation and churning. The ALJ held respondents in default when they failed to appear at the oral hearing in this matter. On September 25, 2006, Smith's attorney submitted a letter informing the Commission that Smith and Keith had settled their dispute, and asking that the initial decision be modified to exclude Smith. The letter was accompanied by a copy of a settlement agreement signed by Keith on September 8, 2006, four days before issuance of the ALJ's decision. The attorney's letter stated that the agreement had been sent to Smith for his signature.

Smith, through counsel, filed a timely notice of appeal from the initial decision on September 28, 2006. Smith's lawyer submitted a second letter on September 29, 2006, informing the Commission that a check had been issued for the agreed settlement amount. Since then, neither Smith nor Keith has filed a stipulation of dismissal. Nor has Smith perfected his appeal by filing a brief.

¹ This case has become final as to respondents Worldwide Commodity Corporation, South Coast Commodities, Inc. and Universal Financial Holding Corporation.

The purported settlement agreement and the correspondence from Smith's lawyer indicating that payment was made are insufficient to terminate this case. Voluntary dismissals are governed by Commission Regulation 12.21, which provides in pertinent part that "either the complainant or the respondent may obtain dismissal . . . by filing a stipulation of dismissal." Smith is directed to the rule for further guidance as to the required form and contents of the stipulation.

According to Regulation 12.401(a), an appeal brief must be filed within 30 days after filing of the notice of appeal. Because the record indicates that Smith may be confused as to the procedural posture of this case, he shall be afforded a reasonable opportunity to comply with the rules of the forum. Smith shall have 21 days from the date this order is issued and served either to file an appeal brief or to seek dismissal of this case under Regulation 12.21.

IT IS SO ORDERED.²

Laura M. Richards

Deputy General Counsel

Commodity Futures Trading Commission

Dated: January 3, 2007

² By the Commission pursuant to delegated authority, 17 C.F.R. § 12.408(a)(1), (6). Within seven days after service of this order, a party may file with the Commission a petition for reconsideration of this ruling. *Id.* at § 12.408(c).