

UNITED STATES OF AMERICA  
Before the  
COMMODITY FUTURES TRADING COMMISSION

MIGUEL ANGEL RUBINI VARGAS and  
GISELLA L. SALINAS

v.

FX SOLUTIONS, LLC

CFTC Docket No. 07-R025

OPINION AND ORDER

Office of  
Proceedings  
New York

2009 JUL -6 PM 4: 31

Received  
C.F.T.C.

For the second time, we review an order dismissing the complaint in this matter. Our first review resulted in a decision that vacated the dismissal and remanded the case to the Administrative Law Judge ("ALJ"). *Vargas v. FX Solutions, LLC*, 2009 WL 1150381 (CFTC Feb. 24, 2009). The ALJ again dismissed the case, on different grounds. *Vargas*, 2009 WL 1543722 (CFTC June 1, 2009) ("Second Dismissal Order"). The ALJ determined, on remand, that at the time complainants brought suit in the Commission's reparations forum, they were engaged in a pending parallel civil court proceeding with respondent in New York state court. The ALJ also addressed and disposed of numerous substantive and procedural issues, and invited the Commission to reconsider the reasoning contained in its order remanding the case.

On review, we find that the case was properly dismissed in light of the New York state court proceeding.<sup>1</sup> Accordingly, we need not reach the other points addressed by the ALJ, which are *dicta* that do not bind the Commission, and were not necessary for the disposition of this case. We decline the ALJ's invitation to revisit our earlier decision.

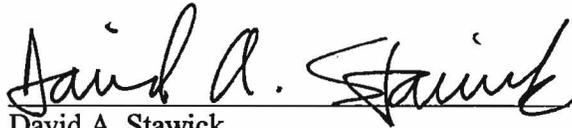
<sup>1</sup> Our review is *sua sponte*, pursuant to Commission Rule 12.403(a). Dismissals based on a pending parallel proceeding are not appealable to the Commission by a party. Commission Rule 12.24(f).

**CONCLUSION**

The order below is affirmed solely on the basis of its ruling dismissing the complaint under Rule 12.24.

**IT IS SO ORDERED.**

By the Commission (Commissioners DUNN, SOMMERS and CHILTON; Chairman GENSLER and Commissioner LUKKEN not participating).

A handwritten signature in black ink, appearing to read "David A. Stawick", written over a horizontal line.

David A. Stawick  
Secretary of the Commission  
Commodity Futures Trading Commission

Dated: July 6, 2009