

UNITED STATES OF AMERICA  
Before the  
COMMODITY FUTURES TRADING COMMISSION

ERNEST L. WADE

v.

MARCUS CHEVALIER, JOSEPH  
GEORGE DURDACK, and KJW, LLC d/b/a  
KEN WOLF COMMODITIES

CFTC Docket No. 06-R

ORDER OF DISMISSAL

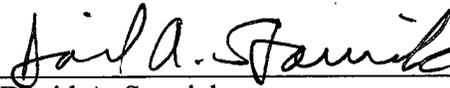
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We took *sua sponte* review of this case to determine whether the Administrative Law Judge (“ALJ”) imposed excessive sanctions for various parties’ noncompliance with procedural orders and whether he acted properly in dismissing the complaint of Ernest L. Wade (“Wade”) with prejudice to Wade’s right to seek redress in another forum. 2007 WL 788371 (CFTC Mar. 15, 2007). Subsequently, upon finding that the ALJ abused his discretion in imposing sanctions, we vacated his order dismissing this case. [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,781, 2008 WL 553223 (CFTC Feb. 27, 2008). We held also that apart from whether dismissal was warranted, the ALJ should not have dismissed the complaint with prejudice to Wade’s right to seek redress outside the reparation forum. Our order gave Wade 30 days to file with the Commission and serve on respondents a notice stating whether or not he desired to pursue his claim and proceed to a hearing before a different ALJ. No response of any sort has been received from Wade. Accordingly, the complaint is finally dismissed with prejudice in the reparation forum.

IT IS SO ORDERED.<sup>1</sup>

<sup>1</sup> Under Sections 6(c) and 14(e) of the Act (7 U.S.C. §§ 9 and 18(e) (2000)), a party may appeal a reparation order of the Commission to the United States Court of Appeals for only the circuit in which a hearing was held; if no hearing is held, the appeal may be filed in any circuit in which the appellee is located. The statute states that such an appeal must be filed within 15 days after notice of the Commission order, and that any appeal is not effective unless, within

By the Commission (Acting Chairman LUKKEN and Commissioners DUNN, SOMMERS and CHILTON).



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

Dated: April 28, 2008

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30 days of the effect of the order, the appealing party files with the clerk of the court a bond equal to double the amount of the reparation award.