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

RECEIVED
C.F.T.C.

'00 JUN 5 AM 9 06

OFFICE OF PROCEEDINGS
PROCEEDINGS CLERK

OFFICE OF
PROCEEDINGS

HYMAN MALLY, Complainant,	*	
v.	*	CFTC Docket No. 99-R131
BARKLEY FINANCIAL CORPORATION, Respondent.	*	

ORDER OF DISMISSAL

By Order To Show Cause dated May 10, 2000: (1) Mally was ordered to show why his unexplained failure to comply with the February 4, 2000 Order -- that had compelled discovery production -- should not result in dismissal of the complaint on the grounds that he has ceased to participate in this proceeding; (2) Mally was directed to produce any evidence that might rebut respondents' statue of limitations affirmative defense;[1] and (3) Mally was warned that failure to comply with the May 10^{th} Order in a timely, complete and responsive fashion would result in dismissal. Mally has failed to reply to the May 10^{th} Order, which is grounds for concluding that he has abandoned his claim. Accordingly, this matter is DISMISSED pursuant to CFTC rules 12.201 (f) and (j).

Dated June 5, 2000.

Philip V. McGuire,
Judgment Officer

---

[1] Mally was directed to produce an affidavit that: (a) stated whether he knew upon receipt of the October 1996 monthly account statement that both option trades had expired worthless, and that he had lost his entire investment; (b) described in detail, with the date or approximate date, each action or statement by Barkley or agents of Barkely that caused, induced, or influenced his decision to wait almost three years to file his complaint, and (c) described in detail the actions taken by Mally to determine and pursue the available legal remedies to recover his trading losses from Barkley, before he filed his reparations complaint on May 28, 1999.