

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

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In the Matter of:	:	
	:	CFTC Docket No. 97-12
CURTIS McNAIR ARNOLD and	:	
LONDON FINANCIAL INC.	:	ORDER DENYING
_____	:	RECONSIDERATION

William Sumner Scott (“Scott”) and his firm seek reconsideration of our September 18, 2002 Opinion and Order affirming the result of an Administrative Law Judge’s (“ALJ”) decision denying Scott’s application for attorney fees and expenses pursuant to the Equal Access to Justice Act (“EAJA”). Scott’s motion raises a variety of points, but none of them address “new questions” that Scott “had no opportunity to argue before the Commission.” *See* Commission Rule 10.106(a) (governing petitions for reconsideration in enforcement proceedings).

Part 148 of the Commission’s Rules governs proceedings on applications for fees and expenses under EAJA, and this Part does not specifically permit motions for reconsideration. Unless a Commission rule governing a form of proceeding expressly authorizes reconsideration, this relief will be available in only "truly extraordinary circumstances." *Cf. Oshinsky v. NFA*, [1994-1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,754 (CFTC July 22, 1996).¹ The points Scott raises in his motion fall far short of the necessary showing.

¹ *Oshinsky* indicates that extraordinary circumstances include: (1) a clear and convincing showing of fraud on the forum by an adverse party; (2) the discovery of previously unknown and non-discoverable evidence which would probably produce a different result; (3) a factual error in a jurisdictional ruling (e.g., a respondent's registration status); or (4) the type of egregious factual or legal error that goes to the heart of the challenged decision's validity. *Id.* at 44,116.

Accordingly, his motion for reconsideration is denied.

IT IS SO ORDERED.

By the Commission (Chairman NEWSOME and Commissioners HOLUM, LUKKEN
and BROWN- HRUSKA).

Jean A. Webb
Secretary of the Commission
Commodity Futures Trading Commission

Dated: December 16, 2002