

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

| | | |
|------------------------------|---|----------------------------------|
| MICHAEL CLARK | : | |
| | : | |
| v. | : | CFTC Docket No. CRAA 01-02 |
| | : | |
| NATIONAL FUTURES ASSOCIATION | : | ORDER DENYING RECONSIDERATION |
| | : | |

Michael Clark (“Clark”) seeks reconsideration of our May 9, 2002 affirmance of the National Futures Association’s (“NFA”) denial of his application for registration as a floor trader. In essence, his motion reiterates arguments raised in his previous submissions. NFA opposes Clark’s motion.

The Commission’s Part 171 Rules do not include a provision expressly authorizing the submission of motions for reconsideration. Rule 171.10, however, authorizes the submission of motions for “a form of relief not otherwise specifically provided for.” Our precedent holds that the type of relief Clark seeks is only available in “truly extraordinary circumstances.” *Oshinsky v. NFA*, [1994-1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,754 (CFTC July 22, 1996).¹

The showing in Clark’s motion does not approach what is necessary to establish

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 the type of egregious factual or legal error that goes to the heart of the challenged decision's validity. *Id.* at 44,116.

extraordinary circumstances. Accordingly, his motion for reconsideration is denied.

IT IS SO ORDERED.

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

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

Dated: September 25, 2002