

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

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4:53 pm, Apr 11, 2013

ERROL J. TORRES and AQUA CAPITAL
ADVISORS LLC

v.

NATIONAL FUTURES ASSOCIATION

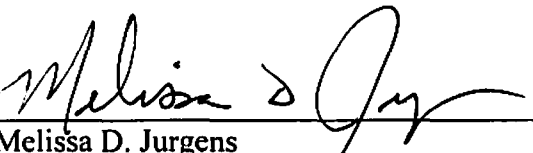
CFTC Docket No. CRAA 11-02

ORDER OF DISMISSAL

Upon review of the record and the parties' appellate submissions, we have determined that the appeal was not timely perfected,¹ and that there was no demonstration of excusable neglect.² Accordingly, we dismiss the appeal without opinion.

IT IS SO ORDERED.

By the Commission (Chairman GENSLER and Commissioners SOMMERS, CHILTON, O'MALIA and WETJEN).


Melissa D. Jurgens
Secretary of the Commission
Commodity Futures Trading Commission

Dated: April 11, 2013

¹ Pursuant to Commission Regulation 171.25(a), the Commission may dismiss any appeal from an NFA decision for which an appeal brief is not timely filed.

² The Commission may excuse untimeliness if the petitioner demonstrates excusable neglect, considering: (1) the risk of prejudice to the non-moving party; (2) the length of the delay and its potential impact on judicial proceedings; (3) the reasons for the delay, including whether it was in the reasonable control of the tardy party; and (4) whether the tardy party acted in good faith. *In re Ligammari*, [2005-2007 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,103 at 57,407 (CFTC June 28, 2005) (order pursuant to delegated authority).