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**In The United States District Court
For The District Of New Jersey
Camden Vicinage**

Commodity Futures Trading Commission,
Plaintiff,

vs.

Equity Financial Group LLC,
Tech Traders, Inc., Tech Traders, Ltd.,
Magnum Investments, Ltd., Magnum
Capital Investments, Ltd., Vincent J. Firth,
Robert W. Shimer, Coyt E. Murray, and
J. Vernon Abernethy,
Defendants.

Hon. Robert B. Kugler
District Court Judge

Hon. Ann Marie Donio
Magistrate

**Civil Action No: 04-1512
(RBK)**

**PLAINTIFF'S MOTION FOR A RESTRAINING ORDER AND A PRELIMINARY
INJUNCTION AGAINST J. VERNON ABERNETHY**

The plaintiff, Commodity Futures Trading Commission (“Commission” or “CFTC”), respectfully requests that the Court enter a restraining order and a preliminary injunction against defendant J. Vernon Abernethy (“Abernethy”) prohibiting him from: 1) destroying, altering, disposing or refusing to permit authorized representatives of plaintiff Commission to inspect, when and as requested, any books, records, electronically stored data, or other documents wherever they may be; 2) withdrawing, transferring, removing, dissipating or disposing of any funds, assets or other property; and 3) violating Sections 4k(2) and 4o(1) of the Commodity Exchange Act, as amended (“Act”), 7 U.S.C. §§ 6k(2) and 6o(1) (2002). The Commission also requests that Abernethy be required to provide to the Commission an accounting of all funds, securities, commodities interests and other assets received directly or indirectly by Abernethy.

In support of this motion, the Commission states:

1. On April 1, 2004, the Commission filed a Complaint for injunctive and other equitable relief against Defendants Equity Financial Group, LLC (“Equity”), Tech Traders, Inc. (“TTI”), Vincent J. Firth (“Firth”) and Robert W. Shimer (“Shimer”) pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, for violations of the Act and the Commission Regulations promulgated thereunder, 17 C.F.R. §§ 1 et seq. (2004).
2. On June 24, 2004, the Court entered a Consent Order of Preliminary Injunction and Other Ancillary Relief Against Equity, Firth and Shimer.
3. On June 25, 2004, the Commission moved to file a First Amended Complaint against the previously named Defendants and, additionally, against Tech Traders, Ltd. (“TTL”), Magnum Investments, Ltd. (“Magnum”), Magnum Capital Investments, Ltd. (“MCI”), Coyt E. Murray (“Murray”) and J. Vernon Abernethy. On August 10, 2004, the Court granted the

Commission's Motion for leave to file a First Amended Complaint, and the Commission filed the First Amended Complaint on August 12, 2004.

4. On August 13, 2004, the Commission filed a Consent Order of Preliminary Injunction Against TTI, TTL, Magnum, MCI and Murray that has been signed by the parties and is awaiting entry by the Court.

5. Section 6c of the Act permits a federal district court to enter restraining orders and temporary and permanent injunctions. 7 U.S.C. § 13a-1(a) and (b). Such authority includes prohibiting the destruction or disposal of documents, the withdrawal or dissipation of assets and further violation of the Act and Commission Regulations.

6. In this case, exercise of the injunctive authority conferred by the Act is appropriate. Abernethy has engaged in long-standing and on-going violations of the Act. He prepared monthly and quarterly reports showing that Tech Traders enjoyed trading gains from at least June 2001 through February 2004, knowing that the reports would be provided to prospective and actual participants whom Abernethy knew or should have known would rely upon not only the information included, but also the fact that it had been reviewed and verified by an independent certified public accountant ("CPA"). However, Abernethy was not independent, did not review all the trading, did not take any steps to "verify" anything, and reported materially inaccurate performance gains, despite possessing documents that disclosed huge trading losses. He also solicited pool participants for Tech Traders without being registered to do so using the performance results from the reports he prepared. Abernethy knew that these same performance results were featured in solicitations by Tech Traders, Murray, Equity, Firth and Shimer and used to prepare statements sent to pool participants. Thus, Abernethy has acted in violation of Sections 4k(2) and 4o(1) of the Act.

7. In support of this motion, the Commission submits and incorporates its Brief In Support of Motion for Preliminary Injunction Against Defendant J. Vernon Abernethy.

8. The public interest requires prompt judicial action to 1) stop Abernethy's on-going violations of the Act; 2) institute an asset freeze and prevent Abernethy from withdrawing or dissipating assets; 3) require the production of requested books and records; 4) prevent the destruction and/or altering of those documents; and 5) require Abernethy to provide an accounting of his assets.

WHEREFORE, the Commission requests that the Court enter an order 1) enjoining Abernethy from violating Sections 4k(2) and 4o(1) of the Act; 2) preventing Abernethy from withdrawing or dissipating assets; 3) requiring the production of requested books and records and preventing their destruction; 4) requiring Abernethy to provide an accounting of his assets; and 5) awarding such further relief as the Court deems necessary and appropriate under the circumstances.

Date: August 13, 2004

Respectfully submitted,



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