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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.

Civil Action No: 04 CV 1512

Hon. Robert B. Kugler
U.S. District Judge

Hon. Ann Marie Donio
Magistrate Judge

**Consent Order of
Preliminary Injunction
Against J. Vernon Abernethy**

On April 1, 2004, Plaintiff, Commodity Futures Trading Commission ("Commission"),
filed a Complaint against Defendants Equity Financial Group, LLC ("Equity"), Tech Traders,

Inc., Vincent J. Firth ("Firth") and Robert W. Shimer ("Shimer") seeking injunctive and other equitable relief for violations of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. §§ 1 et seq. (2002), and the Commission Regulations promulgated thereunder, 17 C.F.R. §§ 1 et seq. (2004). On June 25, 2004, the Commission moved the Court for leave to file a First Amended Complaint against the previously named Defendants and, additionally, against Tech Traders, Ltd., Magnum Investments, Ltd., Magnum Capital Investments, Ltd., Coyt E. Murray ("Murray") and J. Vernon Abernethy ("Abernethy"). This motion was granted on August 10, 2004 and the First Amended Complaint was filed on August 12, 2004.

The First Amended Complaint alleges that Tech Traders, Inc. ("TTI"), Tech Traders, Ltd. ("TTL"), Magnum Investments, Ltd. ("Magnum"), Magnum Capital Investments, Ltd ("MCI") (which are alleged to be a common enterprise and which are collectively referred to as "Tech Traders" hereinafter) and Murray operated a so-called "super fund" or master pool of one or more commodity pools and that they falsely represented to investors in this "super fund" that Tech Traders enjoyed extraordinary success trading in selected financial futures contracts using a confidential, proprietary "portfolio" trading system.

As to Defendant Abernethy, the First Amended Complaint alleges that Tech Traders and Murray engaged Abernethy as an allegedly independent certified public accountant ("CPA") to provide a monthly and quarterly performance number for the "superfund" based on "reviewed" and "verified" trading results. The First Amended Complaint alleges that Abernethy 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 CPA. Moreover, the First Amended Complaint alleges that Abernethy participated in a faulty, agreed-upon procedures engagement, failed to conduct the agreed-upon procedures consistent with professional standards, 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, and Equity, a commodity pool operator operated by defendants Firth and Shimer, and used to prepare statements sent to pool participants.

Abernethy, without admitting or denying the allegations of the First Amended Complaint for the purpose of this Consent Order of Preliminary Injunction and Other Ancillary Relief (“Order”), except as to jurisdiction and venue, which he admits, consents to the entry of this Order and states that his consent is entered into voluntarily and that no promise or threat has been made by the Commission or any member, officer, agent or representative thereof, to induce him to consent to this Order.

THE PARTIES AGREE AND THE COURT FINDS THAT:

1. This Court has jurisdiction over the subject matter of this action and all parties hereto pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear that such person has engaged, is engaging or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation or order thereunder.

2. Venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), in that the Defendant is found in, inhabits, or transacts business in this district, and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this district, among other places.

3. Abernethy waives the entry of findings of facts and conclusions of law for purposes of this Order pursuant to Rule 52 of the Federal Rules of Civil Procedure.

IT IS THEREFORE ORDERED THAT:

1. Defendant Abernethy is restrained, enjoined and prohibited, until further order of the Court, from directly or indirectly:

- A. In the capacity of a commodity trading advisor or commodity pool operator, or associated person of a commodity trading advisor or commodity pool operator, by use of the mails or any means or instrumentality of interstate commerce, employing any device, scheme or artifice to defraud any client or participant or prospective client or participant or engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant, in violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1);
- B. Associating with a commodity pool operator, as a partner, officer, employee, consultant, or agent (or acting in a similar status or performing similar functions), in a capacity that involves the solicitation of funds, securities or property for participation in a commodity pool or supervising any person so engaged without the benefit of registration in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2);
- C. Engaging in, controlling, directing or accepting funds for the trading for any commodity futures or options accounts for or on behalf of any other person or entity, whether by power of attorney or otherwise;
- D. Entering into any commodity futures or options transactions for his own accounts, for any accounts in which he has a direct or indirect interest and/or having any commodity futures or options traded on his behalf;
- E. Introducing customers to any other person engaged in the business of trading in commodity futures and options; and
- F. Otherwise engaging in any business activities related to commodity futures and options trading that require registration.

2. Defendant Abernethy is further restrained, enjoined and prohibited, until further order of the Court, from directly or indirectly:

- A. Dissipating, withdrawing, transferring, removing, concealing or disposing of cash, cashiers checks, funds, assets or other property of, or within the custody, control or possession of the Defendant, including, but not limited to, all funds, personal property, money or securities held in safes, safety deposit boxes and all funds on deposit in any financial institution, bank or savings and loan account, including funds or property of investors, wherever located, whether held in the name of the Defendant or otherwise;
- B. Denying Commission representatives access to his books and records; and
- C. Destroying, mutilating, concealing, altering or disposing of, in any manner, any of the books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of the Defendant, wherever located, including all such records concerning Defendant's business operations, until further order of the Court.

3. In connection with the asset freeze imposed in paragraph 2.A. above, until further order of the Court, Abernethy shall: Deposit all income received, including, but not limited to, salaries, bonuses, commissions, payments of any kind and all other funds, into the following accounts:

account name:	J. Vernon Abernethy
account number:	5196391500 at BB&T Bank, Gastonia, NC
account name:	J. Vernon Abernathy [sic] CPA
account number:	5195048543 at BB&T Bank, Gastonia, NC
account name:	J. Vernon Abernethy Special Rental
account number:	5219613247 at BB&T Bank, Gastonia, NC

Abernethy shall be permitted to withdraw a maximum of two thousand five-hundred dollars (\$2,500) each calendar month from among these accounts for ordinary and necessary living expenses, including payment of home mortgage, health insurance, rental mortgages and utilities.

Abernethy shall provide plaintiff's counsel with his monthly account statements for the foregoing accounts within fifteen (15) days of the date of such account statement.

4. Until further order of this Court, Defendant and each firm, corporation, partnership, association or other person or entity which holds or is a depository of his funds, securities, assets or other property of any kind, are prohibited from directly or indirectly transferring, withdrawing, removing or disposing of any such funds, securities, assets or other property. Any firm, corporation, partnership, association or other person or entity which holds or is a depository of his funds, securities, assets or other property of any kind is also required to expeditiously comply with subpoenas or requests for production of documents for accounts in the name of the Defendant.

5. The injunctive provisions of this Order shall be binding on Defendant and upon any person insofar as he or she is acting in the capacity of officer, agent, servant, employee or attorney of Defendant and upon any person who receives actual notice of this Order by personal service, facsimile or otherwise insofar as he or she is acting in active concert or participation with Defendant.

6. Defendant shall prepare, sign and tender to the Commission within thirty (30) days of this Order, an interim accounting and prepare, sign and file with the Court, within sixty (60) days, a complete and accurate accounting for the period of June 1, 2001, to the date of such accounting, which shall be no earlier than the date of this Order. Such accounting shall include, without limitation, the identification of:

- A. All funds, securities, commodity interests, assets and other property currently owned or controlled (legally, equitably or otherwise) directly or indirectly by the Defendant;
- B. All funds, securities, commodity interests, assets and other property received directly or indirectly by the Defendant, describing the source, amount, disposition, and current location of each listed item;
- C. All funds, securities, commodity interests, assets and other property transferred or otherwise disposed of directly or indirectly by the Defendant, whether individually or jointly, describing the source, amount, disposition,

and current location of each listed item, including accounts or assets of the Defendant held by financial institutions located outside the territorial United States and provide the Commission with access to all records of accounts or assets of the Defendant held by financial institutions located outside the territorial United States by signing the Consent to Release of Financial Records attached to the Court's Order;

- D. The name and last known address of each bailor, debtor or other person or entity currently holding any funds, securities, commodity interests, assets or other property owned or controlled (legally, equitably or otherwise) by the Defendant, either individually or jointly; and
- E. All passwords to any electronic records, all codes and keys to information and property of the Defendant.

7. The Defendant agrees to cooperate fully in providing information to the Equity Receiver appointed in this case, Stephen T. Bobo or his agents, including the accounting firm FGMK, LLC, on, among other things, the source, amount, disposition, and current location of all funds, securities, commodity interests, assets and other property transferred or otherwise disposed of directly or indirectly by the Defendant including accounts or assets of the Defendant held by financial institutions located outside the territorial United States.

8. The terms of the Statutory Restraining Order and Order Appointing Receiver entered April 1, 2004, as modified, shall remain in full force and effect until further order of the Court, except that to the extent they are inconsistent with this Consent Order of Preliminary Injunction and Other Ancillary Relief, this order shall control.

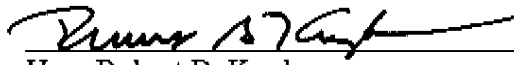
9. Abernethy shall notify the plaintiff within (10) days of any changes of his residential or business addresses pending resolution of this matter.

10. It is further ordered that Joy McCormack and Hugh Rooney, employees of the Commission, are specially appointed to serve this Order and all other papers in this cause. This Order may be served by facsimile transmission or by email with the Order attached as a .pdf file.


11. This Order shall remain in effect until further order of the Court and the Court shall retain jurisdiction over this action to ensure compliance with this Order and for all other purposes related to this action.

IT IS SO ORDERED

Dated: August 23^d, 2004


Hon. Robert B. Kugler
United States District Court Judge

CONSENTED TO AND APPROVED BY:


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Dated: 8-18-2004

Attorneys for Plaintiff