

A

Matthew H. Adler (MA-4720)
Jeffrey A. Carr (JC-1103)
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300 Alexander Park
CN 5276
Princeton, NJ 08543-5276
Tel: (609) 452-0808

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW JERSEY**

**COMMODITY FUTURES TRADING)
COMMISSION,)**

Plaintiff,)

vs.)

Civil Action No.: 04CV 1512

**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)**

Honorable Robert B. Kugler

Defendants.)

**AFFIDAVIT OF STEPHEN T. BOBO IN SUPPORT OF EQUITY RECEIVER'S
MOTION TO COMPEL ROBERT SHIMER TO PRODUCE TAX RETURNS**

Stephen T. Bobo first being duly sworn, states as follows:

1. I am submitting this affidavit in support of my motion for authority to compel Robert Shimer to produce his tax returns for 1999 through 2003.

2. I have personal knowledge of the contents of this affidavit and I am competent to testify as to them.

3. I am serving as Equity Receiver for Defendants Equity Financial Group, LLC, Tech Traders, Inc., Tech Traders, Ltd., Magnum Investments, Ltd., Magnum Capital Investments, Ltd., Vincent J. Firth, and Robert W. Shimer, pursuant to the provisions of the Statutory Restraining Order and Order Appointing Receiver and several consent preliminary injunction orders entered in this case, including the Consent Order of Preliminary Injunction Against Equity Financial Group, LLC, Vincent J. Firth and Robert W. Shimer (“**Mr. Shimer**”), entered on June 24, 2004.

4. With this Court’s authorization, I carried out an investor claim process for persons who invested funds with Tech Traders, Inc. and Shasta Capital Associates LLC. Alison Shimer – Mr. Shimer’s wife – filed a claim for the entire \$150,000 she invested with Shasta plus \$45,741.32 “interest.” (See Alison Shimer claim form, attached as Att. 1.) I objected to her claim on the ground that because her husband transferred funds exceeding \$150,000 from Edgar and Equity¹ to a joint checking account in the names of Robert and Alison Shimer, her claim should be aggregated with such transfers to the account. Mrs. Shimer challenged this objection, characterizing the transfers from Edgar as repayments on loans and fees for legal services and the transfers from Equity as fees for legal services. (See Challenge to Receiver’s Objection to Claim of Alison Shimer, attached as Att. 2.)

5. Pursuant to my authority under these orders, on September 8, 2005, my counsel requested Mr. Firth, personally and as President of Equity, and Mr. Shimer, as counsel for Equity, to provide detailed verified statements of their respective current assets and liabilities, along with supporting documentation by October 3, 2005 so that she would have time to review the submitted documents before Mr. Shimer’s deposition on October 17, 2005. (See letter dated September 8, 2005, attached as Att. 3.)

¹ At the time, I did not know of transfers of additional sums from Kaivalya to Mr. Shimer’s joint account.

6. On October 3, 2005, Mr. Shimer faxed my counsel a letter stating that he would not provide the information for several reasons, including the pendency of his two motions to dismiss and one motion for summary judgment. (See letter dated October 3, 2005, attached as Att. 4.)

7. On October 4, 2005, the Court entered an order denying all these motions. On October 5, 2005, my counsel sent both Mr. Shimer and Mr. Firth an email attaching Judge Kugler's Opinion and Order and urging them to produce the requested information and supporting documentation to save the receivership estate the cost of a motion to compel. (See email dated October 5, 2005 (without attachments), attached as Att. 5.)

8. In a letter dated October 7, 2005, Mr. Shimer provided my counsel certain financial information but did not provide any of the requested supporting documents. (See letter dated October 7, 2005, attached as Att. 6.)

9. On October 18, 2005, during a break in the course of his deposition, Mr. Shimer provided my counsel certain documents for her review and subsequently permitted her to make copies of the documents.

10. Although my counsel had initially requested only Mr. Shimer's 2004 tax returns, a review of the information provided in Mr. Shimer's letter and supporting documents, and Mr. Shimer's deposition testimony, made it clear that I also needed to review his tax returns for 1999 through 2003 in order to carry out my duties as Receiver. Specifically, I believe these documents will assist in the following: (1) gaining a full understanding of Mr. Shimer's assets and liabilities, including any tax liabilities; (2) gaining a full understanding of the flow of funds in and out of bank accounts maintained by Kaivalya, Edgar and Equity, all of which received Tech Traders funds and all of which received funds from, and transferred funds to, various

accounts maintained in Mr. Shimer's name; and (3) gaining a full understanding of statements made in Mrs. Shimer's claim form and in other documents she and Mr. Shimer have submitted to the Court, the CFTC and me.

11. Accordingly, my counsel orally requested Mr. Shimer to produce his tax returns for 1999 through 2003 and followed up this request with a letter dated October 24, 2005. (See letter dated October 24, 2005, attached as Att. 7.)

12. On November 3, 2005, at the second session of his deposition, Mr. Shimer approached me about the request for his 1999 through 2003 tax returns and indicated that he was concerned about potential public disclosure of his joint tax returns. I responded that I was prepared to work out some form of protective order, which he should discuss with my counsel.


13. On November 4, 2005, Mr. Shimer followed up the conversation with an email to my counsel, purportedly to explain why he refused to produce the returns. (See email dated November 4, 2005, attached as Att. 8.) Rather than persuading me and my counsel that he had a valid basis for withholding the returns, this email, which describes transfers of funds among various personal bank accounts and accounts in the name of Kaivalya and Edgar, highlighted the value of obtaining and reviewing the returns to determine if and how such transfers were reported.

14. Because numerous attempts to reach Mr. Shimer by telephone failed, my counsel left Mr. Shimer a voicemail to which Mr. Shimer responded on November 9, 2005 with another email, again refusing to produce the returns and citing confidentiality concerns. (See email dated November 9, 2005, attached as Att. 9.)

15. On November 10, 2005, my counsel sent Mr. Shimer a letter in which she explained the reasons for our request for his returns and proposed a method for addressing his

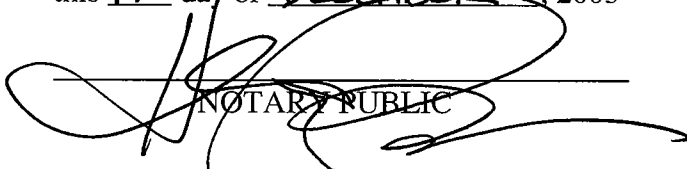
confidentiality concerns. Specifically, she assured him that, if they used the returns as deposition exhibits, she and counsel for the CFTC would designate the exhibits and the relevant portions of the deposition transcript as "Confidential." Notwithstanding this assurance, Mr. Shimer continues to withhold production of his 1999 through 2003 tax returns, which I need to perform my duties as Receiver in this case.

16. My counsel has informed Mr. Shimer that, although she has commenced his deposition, she deems it appropriate to keep the deposition open until the Court rules on this motion and/or he produces his 1999 through 2003 tax returns.

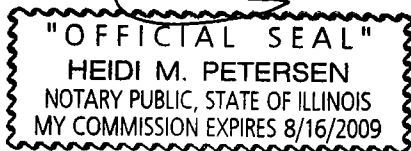


STEPHEN T. BOBO

SWORN TO AND SUBSCRIBED before me
this 19th day of DECEMBER, 2005



NOTARY PUBLIC



Att. 1

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW JERSEY

COMMODITY FUTURES TRADING)
COMMISSION,)

Plaintiff,)

vs.)

Civil Action No.: 04CV 1512

EQUITY FINANCIAL GROUP, LLC,)
TECH TRADERS, INC., TECH)
TRADERS, LTD., MAGNUM)
CAPITAL INVESTMENTS, LTD.,)
MAGNUM INVESTMENTS, INC.,)
VINCENT J. FIRTH, ROBERT W.)
SHIMER, COYT E. MURRAY, and J.)
VERNON ABERNETHY,)

Honorable Robert B. Kugler

Defendants.

CLAIM FORM FOR INVESTORS IN SHASTA CAPITAL ASSOCIATES, LLC

Please complete the following statements, make any changes necessary to ensure accuracy, sign and return it to the address shown on the bottom of this form.

1. I invested funds for commodity trading with the Shasta Capital Associates, LLC ("Shasta") commodity pool operated by Equity Financial Group, LLC.
2. My interest in Shasta is recorded under the following account name and account number, if available: ALISON SHIMER 126-SC-2601
3. I originally learned about Shasta from ROBERT SHIMER and was solicited to invest in Shasta by N/A.
4. According to the most recent information provided to me as of MID MARCH 2004 (date), I understand that the amount of the account balance shown for my interest in Shasta is \$195,741.32

RCF 002389

5. I received information regarding the amount of my equity in Shasta from:

VINCENT FIRTH

6. On the dates listed, the following amounts were transferred to fund my investment in Shasta:

<u>Date</u>	<u>Amount</u>	<u>Source of Funds Used to Invest</u>	<u>Person Making Transfer</u>	<u>Recipient of Transfer</u>
9-5-2003	150,000.00	FINANCING OF PROPERTY	ALISON SHIMER	SHASTA CAPITAL ASSOC.
				RCF 002390

8. Check and complete all statements below that are accurate:

- a. No other person has an interest of any kind in my investment in Shasta; **(I AM MARRIED TO ROBERT SHMER BUT THIS INVESTMENT WAS INTENDED TO BE MINE IN MY NAME ONLY)**
- b. The following persons have a share of my investment in Shasta (list such persons' names and addresses): _____

_____;
- c. I act as trustee or representative of one or more other persons who hold a beneficial interest in my investment in Shasta (list names and addresses of all persons holding such beneficial interests): _____

_____;
- d. I am a representative or agent of the following entity which invested funds in Shasta (list name and address of entity and your relationship to the entity): _____
_____.

9. I have enclosed with this form copies of all available statements received regarding my participation in Shasta.

10. I have also enclosed with this form copies of all checks, wire transfer advices and all other records of transfer relating to the funds deposited in or withdrawn from Shasta.

11. I have enclosed copies of all other documents in my possession or control in connection with my investment in Shasta, including correspondence, e-mails, K-1 or other tax forms, subscription agreements, independent verification agreements, and private placement memoranda.

RCF 002392

12. I am aware of the following persons who also had an investment in Shasta (list names and addresses of such persons):

SEE ATTACHED SHEET

I aver and affirm that the above information is true and correct under penalty of perjury.

Alison Shimer
Signature

Name: ALISON SHIMER
(Please type or print)

Address: 1225 W. LEESPORT RD.
LEESPORT, PA 19533

State of Pennsylvania
County of Berks

Home Phone: (610) 926-4278

Daytime Phone: Same

Subscribed to before me
this 20th day of September
2004.

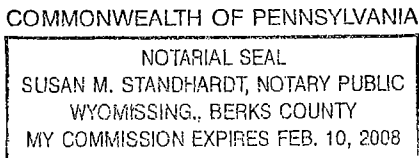
Fax: (610) 926-8828

Email Address: dator@epix.net

Susan M. Standhardt
Notary Public

Please return to:

Cheryl Baran
Sachnoff & Weaver, Ltd.
30 South Wacker Drive
Suite 2900
Chicago, Illinois 60606



RCF 002393

I, Alison Shimer, knew that the following persons were members of Shasta:

Stephen D. Shimer

Katherine Unger

Peter Amt Shasta

Tim Ardill

Nancy Omaha Boy

Tom List

Marsha Green

William and Janet Heller

Charles Seward,

Alfred Lopez

Jeff Marrongelle

Nick Stevenson



Alison Shimer

Att. 2

In The United States District Court
For the District of New Jersey

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. 04CV 1512

Honorable Robert B. Kugler

CHALLENGE WITH RESPECT TO EQUITY RECEIVER'S OBJECTION TO CLAIM OF ALISON E. SHIMER

Alison E. Shimer hereby challenges the Equity Receiver's objection to her rightful claim as an investor in Shasta Capital Associates, LLC ("Shasta") to participate in the Equity Receiver's proposed interim distribution. The Equity Receiver's decision to exclude her from participation in the proposed interim distribution at this time is arbitrary and unreasonable and also violates the basic concepts of fairness for several reasons.

The Equity Receiver's attempt to offset my claim to an interim distribution as a legitimate member of Shasta by citing amounts repaid to Robert W. Shimer by the corporate entity Edgar Holding Group, Inc is arbitrary, unreasonable and unjustified.

The Equity Receiver inaccurately cites in his objections to certain investor claims (as a reason for disputing my rightful claim to an interim distribution as a member of Shasta) the allegation that my husband Robert W. Shimer purportedly received \$196,550.00 from the corporate entity Edgar Holding Group, Inc. ("Edgar"). It is unclear how the Equity Receiver arrived at that particular amount.

The accounting records of Edgar show that my husband Robert W. Shimer received \$41,350.00 from this corporate entity in early 2001 as partial repayment of a loan that Robert W. Shimer previously made to the corporate entity Edgar. The funds used to repay this amount to Robert W. Shimer were corporate funds that did *not* come from defendant Tech Traders. There is, therefore, absolutely no basis in fact for the Receiver to treat the amount of this particular repayment to my husband defendant Robert W. Shimer by the corporate entity Edgar as an offset against amounts due to me as an investor in Shasta.

The accounting records of the corporate entity Edgar also show that the balance of \$110,400.00 then still due defendant Robert W. Shimer as of April 1, 2001 for funds previously loaned to Edgar were completely repaid to Robert W. Shimer by the end of August, 2001—a full 6 months before any funds were ever received by Tech Traders by any investor in Shasta and before (to the best of my knowledge) any funds were received by Tech Traders from any other current claimant. While it is true that this amount of \$110,400.00 was repaid by Edgar to Robert W. Shimer as a result of amounts received by Edgar from repayments made to Edgar by defendant Tech Traders, Inc. it is highly doubtful that any of the other claimants invested any funds either directly or indirectly with defendant Tech Traders, Inc. before or during the time that Edgar received the repayment via Tech Traders.

In the absence of evidence that any of the other current claimants invested either directly or indirectly with defendant Tech Traders, Inc. prior to or concurrent to the time that Robert W. Shimer received repayment from Edgar, any such repayments by Edgar to Robert W. Shimer did not prejudice or diminish the claims of any other stated current claimants and, therefore, it is arbitrary and unreasonable for the Receiver to suggest that any such repayments properly made by Edgar to Robert W. Shimer during the summer of 2001 should be counted as an offset to the amount that I invested with Shasta in the fall of 2003.

As a further and additional and separate basis to accept my claim for participation in the interim distribution proposed by the equity Receiver I would point out that it may be true that the Plaintiff CFTC has allegedly uncovered evidence that purports to show that defendant Tech Traders, Inc. lost money while trading investor funds during the latter part of 2001 and that the defendant Tech Traders, Inc. also allegedly lost money trading in later calendar years. However, to my knowledge there has been no evidence presented to this Court that contradicts the positive, profitable trading performance reported by Defendant Coyt E. Murray to Robert W. Shimer during the early part of 2001 either prior to or during the time period when payments from defendant Tech Traders, Inc. to Edgar provided the basis for Edgar's ability to repay the amount of \$110,400.00 to Robert W. Shimer during the summer of 2001.

In the absence of clear evidence that Tech Traders lost money during the time that the principal amount of Edgar's funds were placed with Tech during the early part of 2001 it is completely arbitrary and totally unreasonable for either the equity Receiver or the Court to "assume" that Tech lost money during that period of time. In the absence of clear evidence to the contrary, payments made to the corporate entity Edgar by the entity defendant Tech Traders, Inc. that were used by Edgar to repay Robert W. Shimer during the summer of 2001 were amounts that were arguably profitably traded by Tech Traders, Inc.

The accounting records of Edgar further show that in calendar year 2002, defendant Robert W. Shimer did not receive any payment for legal services that he rendered to Edgar. The accounting records of Edgar further show that during all of calendar year 2003 Robert W. Shimer received very modest legal fees in the total amount of \$24,375.00 from Edgar. However, only \$9,847.00 of this amount were funds received by Edgar that can be reasonably attributed to defendant Tech Traders, Inc. Defendant Robert W. Shimer received no funds from the corporate entity Edgar during calendar year 2004. Defendant Robert W. Shimer also still owes the corporate entity

Edgar a total amount of \$18,850.00 for several small loans made by Edgar to Mr. Shimer during calendar year 2002 and 2003.

The legal fees that Robert W. Shimer received from the corporate entity Edgar were reasonable, were received in good faith and were received without any knowledge of any prejudice to any other claimant and were certainly commensurate with the amount of work that he performed for the corporate entity Edgar. The small amount still owed by Mr. Shimer to the entity Edgar is a relatively small amount and represents a reasonable further accommodation by Edgar to Mr. Shimer for the legal services that Mr. Shimer continuously provided to Edgar. In light of all of the above facts and representations it is arbitrary and unreasonable for the Equity Receiver to cite payments by the corporate entity Edgar to Robert W. Shimer as a reason to deny me my rightful share of the Equity Receiver's proposed interim distribution.

The Equity Receiver's attempt to offset my claim to an interim distribution as a legitimate member of Shasta by citing amounts paid to our joint checking account is arbitrary, unreasonable and unjustified.

The Equity Receiver further states that I am not entitled to participate in the Receiver's proposed interim distribution because the joint banking account I share with my husband defendant Robert W. Shimer at Patriot Bank shows the receipt of the alleged amount of \$212,945.00 and also notes that my husband's escrow account at that same bank shows receipt of another \$24,150.00.

My husband worked for over three years on the Shasta project and much of that time that project required practically his full time attention. It is outrageous that the Equity Receiver should purport to withhold an interim distribution from me as a legitimate member of Shasta primarily because my husband was actually paid for legal work that he performed in good faith as an attorney for his legal clients.

The Equity Receiver is well paid for the services he is rendering in this matter to the immediate and direct detriment of every member of Shasta because every fee charged by the Equity Receiver comes directly out of the amount remaining for distribution to each of Shasta's members and other legitimate claimants. The Equity Receiver and every other attorney associated in any way with respect this matter is clearly being paid an hourly rate far in excess of the effective hourly rate that my husband received for the diligent and good faith legal advice and guidance he provided to his clients Shasta Capital Associates, LLC and to New Century Trading, LLC as well as to the managers of both of those entities over the course of more than 3 years.

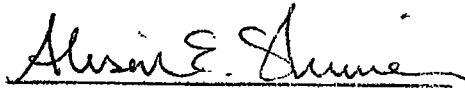
It is disingenuous and unreasonable for the Equity Receiver to take the position that other attorneys associated with this matter are fully entitled to be paid (to the current and continuing detriment of Shasta's members and other claimants) but somehow the payments previously received by my husband in good faith for legitimate legal work performed for his clients somehow occupy an "inferior" and or "suspect" category that require an offset against my legitimate and separate claim to participate in the proposed interim distribution. Such a position

on the part of the Equity Receiver is arbitrary, and it is unreasonable and it violates basic concepts of fairness.

Any hearing on the merits of my claim to participate in the interim distribution proposed by the Equity Receiver should be deferred until after the current return date for Robert W. Shimer's pending motions to dismiss.

Furthermore, it is worth noting that my husband Robert W. Shimer currently has filed with the Court several potentially dispositive motions to dismiss this matter under Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure with respect to himself. If either or both of those motions are granted by the Court, Robert W. Shimer's status in this matter may change dramatically from one of defendant to non defendant. At the very least it seems appropriate for the Court to defer a final decision with respect to my claim for participation in the proposed interim distribution until the Court has had an opportunity to rule on my husband's motions to dismiss filed recently with the Court.

Respectfully submitted,



Alison E. Shimer
1225 W. Leesport Rd.
Leesport, PA 19533
(610) 926-4278

Att. 3

Sachnoff & Weaver, Ltd.

10 South Wacker Drive

Chicago, Illinois 60606-7507

t 312.207.1000 f 312.207.6400

www.sachnoff.com

Bina Sanghavi

Attorney at Law

t 312.207.3916

bsanghavi@sachnoff.com

Sachnoff & Weaver 

September 8, 2005

VIA U.S. MAIL

Vincent J. Firth
Equity Financial Group LLC
Three Aster Court
Medford, New Jersey 08055

FILE COPY

Re: CFTC v. Equity Financial Group et al.
No. 04 CV 1512

Dear Mr. Firth:

As you know, I serve as counsel for Stephen T. Bobo, the Equity Receiver in the above-referenced matter. Pursuant to the Receiver's powers under the Statutory Restraining Order and Order Appointing Receiver entered by Judge Kugler on April 1, 2004 and Consent Order of Preliminary Injunction entered by Judge Kugler on June 24, 2004, we request that you provide the following information no later than October 3, 2005 including a properly executed declaration verifying the authenticity of the information provided:

- I. Statement of your current assets, including but not limited to:
 - a) Cash, bank and money market accounts;
 - b) Receivables of any kind;
 - c) Fair market value of all real estate in which you have a legal or beneficial interest;
 - d) Deferred income arrangements;
 - e) Investment accounts of any kind, including but limited to securities, commodities and bonds;
 - f) Automobiles and other vehicles;
 - g) Business interests;

September 8, 2005
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Sachnoff&Weaver 

- h) IRAs and other retirement accounts and pension rights;
- i) Art, collectibles or other personal property of value;
- j) Lines of credit; and
- k) Wills, trust and escrows.

II. Statement of your current liabilities, including but not limited to:

- a) Real estate mortgage;
- b) Real estate liens;
- c) Notes, accounts payable and debts; and
- d) Automobile loans.

Whenever possible, please provide copies of documents substantiating the information in your affidavit. In addition, please also provide us with a copy of your 2004 tax return and a summary of your sources of income year to date for 2005 and your average monthly living expenses from April 2004 through September 2005.

In addition, we request that you provide the following information relating to Equity Financial Group, LLC no later than October 3, 2005, including a properly executed declaration verifying the authenticity of the information provided:

I. Statement of current assets, including but not limited to:

- a) Cash, bank and money market accounts;
- b) Receivables of any kind;
- c) Fair market value of all real estate in which you have a legal or beneficial interest;
- d) Deferred income arrangements;
- e) Investment accounts of any kind, including but limited to securities, commodities and bonds;
- f) Automobiles and other vehicles;

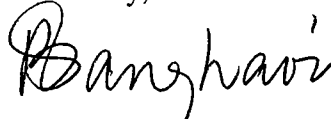
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Sachnoff&Weaver 

- g) Business interests;
 - h) Art, collectibles or other property of value; and
 - i) Lines of credit.
- II. Statement of current liabilities, including but not limited to any notes, accounts payable and debts.

Whenever possible, please provide copies of documents substantiating the information in your affidavit. In addition, please also provide us with a copy of Equity's 2004 tax return and a summary of its sources of income year to date for 2005 and its average monthly living expenses from April 2004 through September 2005. We look forward to your timely response to this request for information. If you have any questions or concerns about this request, please feel free to contact me at 312.207.3916.

Sincerely,



Bina Sanghavi

cc: Stephen T. Bobo

Sachnoff & Weaver, Ltd.
10 South Wacker Drive
Chicago, Illinois 60606-7507
t 312.207.1000 f 312.207.6400
www.sachnoff.com

Bina Sanghavi
Attorney at Law
t 312.207.3916
bsanghavi@sachnoff.com

Sachnoff & Weaver 

September 8, 2005

VIA U.S. MAIL

Robert W. Shimer
1225 W. Leesport Rd.
Leesport, PA 19533

FILE COPY

Re: CFTC v. Equity Financial Group et al.
No. 04 CV 1512

Dear Mr. Shimer:

As you know, I serve as counsel for Stephen T. Bobo, the Equity Receiver in the above-referenced matter. Pursuant to the Receiver's powers under the Statutory Restraining Order and Order Appointing Receiver entered by Judge Kugler on April 1, 2004 and Consent Order of Preliminary Injunction entered by Judge Kugler on June 24, 2004, we request that you provide the following information no later than October 3, 2005 including a properly executed declaration verifying the authenticity of the information provided:

- I. Statement of your current assets, including but not limited to:
 - a) Cash, bank and money market accounts;
 - b) Receivables of any kind;
 - c) Fair market value of all real estate in which you have a legal or beneficial interest;
 - d) Deferred income arrangements;
 - e) Investment accounts of any kind, including but limited to securities, commodities and bonds;
 - f) Automobiles and other vehicles;
 - g) Business interests;

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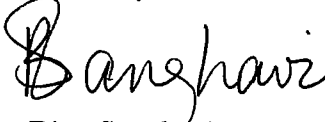
- h) IRAs and other retirement accounts and pension rights;
- i) Art, collectibles or other personal property of value;
- j) Lines of credit; and
- k) Wills, trust and escrows.

II. Statement of your current liabilities, including but not limited to:

- a) Real estate mortgage;
- b) Real estate liens;
- c) Notes, accounts payable and debts; and
- d) Automobile loans

Whenever possible, please provide copies of documents substantiating the information in your affidavit. In addition, please also provide us with a copy of your 2004 tax return and a summary of your sources of income year to date for 2005 and your average monthly living expenses from April 2004 through September 2005. We look forward to your timely response to this request for information. If you have any questions or concerns about this request, please feel free to contact me at 312.207.3916.

Sincerely,


Bina Sanghavi

cc: Stephen T. Bobo

Att. 4

LAW OFFICE

Robert W. Shimer, Esq.

Member:
Massachusetts Bar
Attorney & Counsellor,
Supreme Court of the United States

1224 W Leesport Rd
Leesport, Pennsylvania 19533

Tel: 610-926-4278
Fax: 610-926-8828

FAX CORRESPONDENCE

October 3, 2005

Bina Sanghavi, Esq.
Sachnoff & Weaver, Ltd.
10 South Wacker Drive
Chicago, Illinois 60606-7507
FAX: (312) 207-6400

Dear Ms Sanghavi:

This will respond to your letter dated September 8, 2005 requesting an extensive list of extremely private and confidential personal financial information from me. Please be advised that I would prefer to not provide the information requested at the present time for the following reasons:

- 1) As you well know, this past summer I filed two separate motions to dismiss with the Court under Federal Rules 12(b)(1) and 12(b)(6). As you also know the Court has not yet ruled on either of those motions. Both of those motions are potentially dispositive of this matter. If either of these motions are granted, and the Court signs an order similar to the proposed order submitted with each of those motions the Equity Receiver will no longer have a right to request any private financial information from me as I will no longer be a defendant in the matter of *CFTC v Equity Financial Group, LLC et al.*
- 2) As you may also know I also filed a motion for summary judgment this past summer with the Court under Federal Rule 56(b). The Court has not yet ruled on this potentially dispositive motion. If my motion for summary judgment is granted, the Equity Receiver will no longer have a right to request any private financial information from me as I will no longer be a defendant in the matter of *CFTC v Equity Financial Group, LLC et al.* Since the Plaintiff CFTC has presented to the Court not one single federal case in support of its position that my client Shasta Capital Associates, LLC qualifies as a commodity pool I feel that it is highly likely the Court will rule in my favor with respect to this particular motion.
- 3) In the summer of 2004 I voluntarily provided through my then legal counsel Menaker & Herrmann extensive personal banking information, corporate accounting records and all of my legal files in this matter as well as an image of my computer hard drive. I also took countless hours of my time to compile an extensive separate list which provided to the Equity Receiver the exact source of every dollar ever received by myself or any of my clients during the relevant time period covered by this litigation. The information

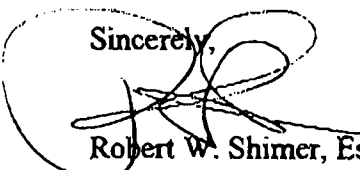
provided willingly by me also allowed the Equity Receiver to account for *every single dollar* that was ever received from the defendants Tech Traders, Inc./Coyl E. Murray by either myself or by any of my clients. I also provided a list of my assets and my liabilities at that time. There has been no significant change in my assets since this information was previously provided to your office. The only difference in my financial position has been a substantial increase in my financial liabilities as I have had to draw on extensive previous lines of credit to continue to survive the ordeal presented by this litigation.

- 4) There certainly does not appear to be any urgent need on the part of the Equity Receiver to obtain the private financial information that you have requested. I note that this matter has tediously dragged on now for over 18 months. The Equity Receiver has yet to make even a preliminary interim distribution of assets to investors during this period of time. Certainly access to my private financial information will not accelerate the proposed interim distribution nor will it aid or accelerate in any way with respect to any proposed later distribution from Tech Trader funds currently in the possession of the Equity Receiver. Nor would any of this information requested from me aid the Equity Receiver in the majority of his duties that are related to many parties including the Sterling entities that were not my legal clients.

With all due respect, the Equity Receiver has had in his possession all relevant financial information from me for almost a year. I think it is an eminently reasonable position on my part that you defer any further requests to me for private personal financial information until such time as the Court rules on my currently pending and potentially dispositive motions. A favorable ruling by the Court with respect to any of my pending motions would not only make your present information request unnecessary but would relieve the Equity Receiver of any further right to any of the personal financial information requested in your letter dated September 8th.

In light of the substantial issues presented in my pending motions I feel that the advice of Menaker and Herrmann last summer that I consent to the preliminary injunction and the receivership was not only erroneous but highly prejudicial to my interests. The issues presented in my pending motions before the Court should have been placed before the Court last summer in opposition to the receivership of myself as a named defendant. Under current federal case law Plaintiff CFTC arguably had no legal authority to request that the Court place me in personal receivership and it is eminently reasonable and appropriate that the Court be now given the time necessary to provide the parties in this matter with a ruling on the legal issues raised by my pending motions.

Sincerely,



Robert W. Shimer, Esq.
Via fax and regular mail

Att. 5

Sanghavi, Bina

From: Sanghavi, Bina
Sent: Wednesday, October 05, 2005 4:01 PM
To: 'Robert Shimer'; Vince Firth
Subject: Information we requested on September 8, 2005



10 04 05 Kugler 10 04 05 Order.pdf
Opinion denyin...

Dear Mr. Shimer and Mr. Firth:

As a courtesy to you, I am attaching Judge Kugler's opinion and order. Given that my letter requesting financial information from both of you went out on September 8, 2005 and your responses were nothing more than blanket refusals, they could have been sent out long before this week. It is not "suddenly so urgent that this information be immediately assembled immediately." We requested it a month ago, we gave you ample time to assemble it and it is likely that we will not be in a position to close your deposition without it. I still hope that we can resolve this matter without motion practice. I look forward to your call tomorrow.

Bina Sanghavi
Bsanghavi@sachnoff.com
Sachnoff & Weaver, Ltd.
10 South Wacker Drive, Suite 4000
Chicago, IL 60606-7507
(312) 207-3916
(312) 207-6400 Fax

This e-mail, and any attachments thereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you have received this e-mail in error, please immediately notify me at (312) 207-1000 and permanently delete the original and any copy of any e-mail and any printout thereof.

Att. 6

LAW OFFICE

Robert W. Shimer, Esq.

Member
Massachusetts Bar
Attorney & Counsellor,
Supreme Court of the United States

1235 W Leesport Rd
Leesport, Pennsylvania 19533

Tel: 610-926-4278
Fax: 610-926-8828

October 7, 2005

Bina Sanghavi, Esq.
Sachnoff & Weaver, Ltd.
10 South Wacker Drive
Chicago, Illinois 60606-7507

Dear Ms Sanghavi,

This will reply to your letter dated September 8, 2005 requesting on behalf of the Equity Receiver certain financial information from me. Please be advised that to the best of my knowledge the following information is true and accurate:

Current Assets

Cash, bank and money market accounts:

Personal bank account @ \$1,600.00

Bank account of George Shimer Trust of which I am trustee: \$807.39

Receivables: None

Fair Market value of Real estate owned:

North Carolina Condo: somewhere between \$340,000 and \$360,000.00

Camp Hill single family house: \$175,000.00

Deferred Income arrangements: None

Investment Accounts: I own no investment accounts at this time. I am listed with my wife as a member of Opus Capital Management, LLC an oil and gas related investment. The Capital account of this investment was reported by accountants to have a negative capital account balance of \$319.00 as of the end of tax year 2004.

Automobiles: 1994 Volkswagen Touareg approximate trade in value \$27,000.00
1991 Alfa Romeo 164 This car failed to pass inspection last month. The expenses recently estimated to repair the car in the amount of \$1,965.67 are more than the car is worth.
1988 Buick Le Sabre. As I recall this car had a Kelly blue book several years ago of approximately \$1,000

Business Interests: None

IRA's and other Retirements Account as of 6/30/05: \$2,090.69.

Art collectibles and other misc. personal property: Approximately \$5,000.00

Lines of Credit: No available bank credit lines.

Wills, Trusts and escrows: Trustee of George Shimer Trust. Misc stock holdings of approximately \$1,000-\$2,000.00.

Current Liabilities:

Real Estate mortgages:

Leesport Home \$533,212.55
North Carolina Condo: \$294,166.18
Camp Hill House: \$\$170,956.96

Real estate Liens: None

Notes, accounts payable and debts:

\$40,000.00 owed to my now deceased brother and my sister in law
\$139,000.00 credit card debt

Automobiles loans:

@ \$31,000.00 (Touareg)

Sources of income for 2005

Legal fees for services rendered
Credit card lines of credit

Average Monthly living expenses from April 2004 through September 2005:

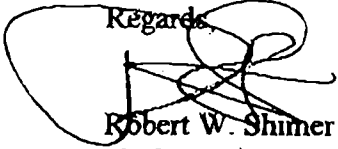
Mortgages	\$6,249.46
Insurance	\$717.00
Condo Fees	\$400.00
Garbage collection	\$26.00
Water & Sewer	\$55.00
Cable (Camp Hill)	\$10.57
Electric	\$335.00
Telephone	\$342.00
House Alarm service	\$32.50
Credit card debt	\$ 4,242.00

Note: This is my current monthly payment amount. Monthly payments were substantially less in 2004

No allowance was provided above for food, gas healthcare or health insurance and heat for the winter and any amount I put would just be a guess.

I trust this will give you a fairly accurate snapshot of my present financial situation. After reviewing this list, please let me know if you still feel the need to review back up for the numbers I have provided.

Regards,



Robert W. Shimer
via fax and regular mail

Att. 7

Sachnoff & Weaver, Ltd.

10 South Wacker Drive

Chicago, Illinois 60606-7507

t 312.207.1000 f 312.207.6400

www.sachnoff.com

Bina Sanghavi

Attorney at Law

t 312.207.3916

bsanghavi@sachnoff.com

Sachnoff & Weaver 

October 24, 2005

VIA ELECTRONIC MAIL

Robert W. Shimer
1225 W. Leesport Rd.
Leesport, PA 19533

Re: CFTC v. Equity Financial Group et al.
No. 04 CV 1512

Dear Mr. Shimer:

Thank you for providing the Equity Receiver certain requested financial information in your letter dated October 7, 2005 and for providing us copies of certain documents supporting that information. As we discussed during your deposition last week, we also need copies of your 1999 through 2003 federal tax returns, which you agreed to provide this week. Finally, you told me that you had inadvertently omitted the following items from your statement of current assets: (a) a sailboat valued at between \$11,000 and \$15,000; and (b) a time-share apartment in New York valued at between \$11,000 and \$15,000. Please confirm that this is accurate and provide us documents supporting this information.

If you have any questions or concerns about this request, please feel free to contact me at 312.207.3916.

Sincerely,



Bina Sanghavi

cc: Stephen T. Bobo

Att. 8

Sanghavi, Bina

From: Robert Shimer [shimer@enter.net]
Sent: Friday, November 04, 2005 12:21 PM
To: Sanghavi, Bina
Subject: Re: additional tax returns you have requested

Bina,

I spoke to Stephen briefly at the end of my deposition yesterday in Phila and he mentioned to me that you were still looking to receive the additional tax returns referenced in your fax letter to me dated October 28, 2005. I expressed to him at that time Alison's serious concern about the fact that you are requesting returns that were filed jointly with her and that were not originally requested in your letter dated September 8, 2005. It would appear that your request for these additional returns is an "after thought". Stephen suggested that I e-mail you an update on where we stand as of today and that he would discuss this further with you --perhaps on Monday or early next week

Bina, when I took that copy of our joint 2004 tax return to Chicago Alison made me promise her that I would not give it to you but only give you "access" to review it. She did not have a problem with you seeing it but did not want a copy of our joint return being transferred out of our possession to end up as a possible exhibit down the road where anyone has access to it. That is simply not fair to me but it is particularly not fair to Alison who is neither a defendant in this matter nor a person subject to the Equity Receiver. It was our understanding that your request for that most recent tax return year (2004) was to help verify our current financial situation. I recall that when we were in Chicago you also promised me that you would provide me with written assurance the following week of how you would handle the very private and sensitive financial information requested in your letter of September 8th that I voluntarily provided to you in Chicago but your letter dated October 28, 2005 did not address that issue at all.

Alison is extremely angry at me for just giving you our joint 2004 tax return. Now you are asking (apparently as an after thought) for tax returns for many years prior to the formation of Shasta and which cover years in which absolutely no funds from defendant Tech were ever paid to me. These returns are in Alison's possession. She is the sole owner of the home we occupy and she feels that her financial privacy is being invaded without any justifiable reason. Moreover it is difficult for me to see how tax returns that cover the years 1999, 2000 and 2001 have any bearing at all upon the Receiver's duties with respect to the current matter in which I am a defendant. Shasta was not even formed until the late spring of 2001 and no funds from Shasta were sent to defendant Tech until early 2002.

Since the Receiver is already in possession of all of the accounting and bank accounts of Edgar, Kaivalya and in possession of our personal joint account at Patriot bank for all of the years 1999 through 2004 you well know or should know that absolutely no funds from defendant Tech were ever paid to me during 1999 or 2000. You also know or should know that in calendar year 2001 I loaned \$150,000.00 of my own personal funds to the corporate entity Edgar who transmitted those funds to Magnum for Tech Trader trading. You also know or should know that any and all funds that were paid back to the corporate entity Edgar in 2001 by Tech Traders represented a partial withdrawal of the principal amount of Edgar source funds placed with Tech. Any payments made to me by Edgar during 2001 were simply repayments of my previous loan to the corporate entity Edgar and all of those transactions were dutifully recorded on Edgar's books which you now have. All of those repayment by Edgar to me in 2001 are non taxable loan principal repayment transactions and so are irrelevant to tax returns filed for 2001.

You also know or should know based upon both the tax returns and accounting

records for the entities Kaivalya and Edgar for calendar year 2002 that any payments made to me by Kaivalya were repayments of loan amounts I may have made, in turn, from my own funds to Kaivalya. ALL REPAYMENTS MADE BY KAIVALYA TO ME IN 2002 WITH THE EXCEPTION OF A TOTAL OF \$3,000.00 MADE IN OCTOBER 2002 WERE MADE BY KAIVALYA FROM FUNDS THAT WERE RECEIVED BY KAIVALYA FROM A NON TECH SOURCE--NAMELY REPAYMENTS BEING MADE BY JERRY LATULIPPE TO THE ENTITY KAIVALYA ON AMOUNTS HIS COMPANIES OWED KAIVALYA. The Equity Receiver has previously been provided with all of the accounting and bank records of Kaivalya (as well as my own personal joint banking records) to verify that this is true.

I did not receive any payments from my client Equity via Tech until the summer of 2002 and those payments began after more than a year of continuous legal services rendered to both Equity and Shasta and these payments were all received by me in good faith clearly with no knowlege of the fraud being perpetrated by Tech. I was issued a 1099 by the entity Equity for all such payments and proper taxes were paid on all legal fees that were received by me that year.

It was not until 2003 that repayments of my substnatial personal loans to Kaivalya were re-paid by Kaivalya to me as a result of payments basically received during that year by Kaivalya from Tech. It seems from the above facts which you know to be true from all of the records previously provided the Equity Receiver through my previous legal counsel Mennaker & Herrmann the only additional year that you might have any real need to see is the tax return for 2003 since that is the year that I received substantial legal fee payments from Equity and also received legal fee payments from Kaivalya of \$16,425.00 and perhaps a very small legal fee payment from my client Allied. I can understand why you might want to review my tax return for 2003. But since it is a joint return Alison definitely has a "say" in how it is provided to you. She would prefer to allow you access but not a copy. That is something we can discuss.

You have a clear and relatively complete picture of my current expenses and my current income from the previous information provided to you in reseponse to your request of September 8, 2005. I will gladly supply you with any additional current income or current expense info you may still need.

Stephen said he would discuss your request for these additional tax returns with you early next week. Frankly, I do not see any "need" at all from the Equity Receiver's point of view for most of these additional returns. I would be happy to discuss some arrangement to make our joint return for 2003 available to you if you feel that is absolutely necesssary but I would like a specific explanation from you about what information you feel that might be on that particular tax return that is necessary to further the Equity Receiver's responsibilities in this matter. Again, Alison will clearly have to have a definite "say" in that matter as it is a joint return filed with her.

My financial privacy and Alison's financial privacy have been violated again and again through out this matter and there has not even been a trial on the merits to determine any liability on my part. Apart from the merits I am very willing and determined (as previously stated) to take to the Third Circuit if necessary on appeal the "'shasta is a commodity pool" issue questionably championed by Streit and the CFTC (and an arguably critical key to sustaining all counts of the CFTC's complaint against me).

Please contact me next week after you talk to Stephen.

Regards,

Bob

Att. 9

Sanghavi, Bina

From: Robert Shimer [shimer@enter.net]
Sent: Wednesday, November 09, 2005 4:35 AM
To: Sanghavi, Bina
Subject: Reply Re: additional tax returns you have requested

Bina,

I was gone all day yesterday and received your voice mail message last night. I don't think there is much more we can discuss on this. I did not hear a reasonable basis on your voice mail message to justify any further disclosure of additional tax returns in order to allow you to conduct my deposition. It seems you just want the returns because you want them. I have reiterated my points on this matter clearly in my previous e-mail to you.

Unfortunatly, you will now have to deal with Alison. Returns requested are Alison's as well. She was so mad at me for "giving" you our joint 2004 tax return when I was in Chicago instead of just allowing you "access" as I promised her, that she has demanded and received possession of all our tax returns. Since returns you have requested are joint returns with her and because there is absolutely no way for either you or Beth Streit to guarantee her that her private financial information on those returns will not eventually somehow make it into the hands of Murray or any of the other criminals down in North Carolina or other parties that have no right to view her or my private tax records, she absolutely refuses to provide these returns to you. She does not trust the people where you work or those at the CFTC. She feels we have been "burned" royally by every professional with any connection to this matter.

I see this matter going on and on and on for years defending myself at trial on my own and then, if necessary, taking the entire matter on appeal to the Third Circuit. There is absolutely no federal legal precedent for the CFTC's attempt to characterize Shasta as a commodity pool. Absent such a finding this whole thing falls apart with respect to both Vince and myself and I think Beth clearly knows that. Kugler's opinion seems to have been written with the confidence that this matter was probably going to be "settled" before any trial ever occurred. Settlement is NOT going to happen.

Menaker and Herrmann did me a huge disservice and provided extremely shabby advice to both Vince and myself in advising us to consent to this Receivership without a legal fight. He told us this thing would be settled by last fall. Now, looking back, in my opinion, that was a deliberate, knowing lie. Eventually I am certain I will be vindicated on all counts of this complaint but it will be a long, long road which I am now prepared to travel because I basically have no other choice.

Alison thinks Sam Abernethy sold us out by advising us to cooperate and consent to this receivership without a legal fight, that he simply wanted some additional

payment from funds in the Receiver's possession and he was willing to basically "trade" our rights to an adequate defense for a few additional bucks in his pocket. I have cooperated with the Receiver ad nauseum through Mennaker and Herrman last year. And Alison has spent days gathering and compiling our personal banking info for you so it would be clear and understandable.

If these tax returns were really necessary for you to complete my deposition Alison thinks you would have asked for them initially in your letter of September 8, 2005. It seems to her that these additional return requests are merely an after thought. I have cooperated fully with the Equity Receiver with the all of the information previously provided to him and his accountants. At this point EVERY DOLLAR that Equity, Kaivalya, Edgar or I received from Tech can be accounted for. You know the identity and the amount of every dollar that was ever paid by Kaivalya to anyone. You have access to all of our joint bank account information and all bank accounts of all of the corporate entities and their tax returns. Our tax return information is far more general and less specific than all of the information you already have.

I am more than happy to answer any of your questions in deposition next week about any transfer of funds between Kaivalya and Edgar or myself to the extent that I can remember the details and any other receiver related questions you might have. You are now seeking private financial tax return information from a person who is neither a defendant nor in receivership and she is willing to fight you all the way now simply on general principles. There is absolutely no information on any of these returns that will aid the Equity Receiver in completing his receivership responsibilities. You have a clear picture of my current finances, you have a copy of all of my credit card statements which do not have the individual merchant transactions blacked out (which I had also promised Alison would not be left with you in Chicago), a listing of my monthly expenses which are substantial and now I am sure that either someone in your office or Ms Streit's will begin contacting all of our mortgage companies and teh credit card companies, just as was done with Vince under the guise of "verifying" information that is obviously true on its face.

The process has clearly become the punishment and Alison is now finally and totally fed up. You will now have to deal with her directly. She has demanded and received possession of the returns and I am now out of the loop. Neither Alison nor I am available for any further discussion of this matter today. We are frantically trying to complete some projects on our Leesport home that HAVE to be done immediately before cold weather sets in but I wanted to at least provide you with the courtesy of a reply to your voice message. If you want to talk to Alison tomorrow about this I am sure she will take your call.

Regards,

Bob

----- Original Message -----

From: "Sanghavi, Bina" <BSANGHA@sachnoff.com>

To: "Robert Shimer" <shimer@enter.net>
Sent: Tuesday, November 08, 2005 2:18 PM
Subject: RE: additional tax returns you have requested

Bob:

I left you a message this morning on your home number. We need to talk about this ASAP so please call me.

Bina Sanghavi
Bsanghavi@sachnoff.com
Sachnoff & Weaver, Ltd.
10 South Wacker Drive, Suite 4000
Chicago, IL 60606-7507
(312) 207-3916
(312) 207-6400 Fax

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-----Original Message-----

From: Robert Shimer [mailto:shimer@enter.net]
Sent: Friday, November 04, 2005 12:21 PM
To: Sanghavi, Bina
Subject: Re: additional tax returns you have requested

Bina,

I spoke to Stephen briefly at the end of my deposition yesterday in Phila and he mentioned to me that you were still looking to receive the additional tax returns referenced in your fax letter to me dated October 28, 2005. I expressed to him at that time Alison's serious concern about the fact that you are requesting returns that were filed jointly with her and that were not originally requested in your letter dated September 8, 2005. It would appear that your request for these additional returns is an "after thought". Stephen suggested that I e-mail you an update on where we stand as of today and that he would discuss this further with you --perhaps on Monday or early next week

Bina, when I took that copy of our joint 2004 tax return to Chicago Alison made me promise her that I would not give it to you but only give you "access" to review it. She did not have a problem with you seeing it but did not want a copy of our joint return being transferred out of our possession to end up as a possible exhibit down the road where anyone has access to it. That is simply not fair to me but it is particularly not fair to Alison who is neither a defendant in this matter nor a person subject to the Equity Receiver. It was our understanding that your request for that most recent tax return year (2004) was to help verify our current financial situation. I recall that when we were in Chicago you also promised me that you would provide me with written assurance the following week of how you would handle the very private and sensitive financial information requested in your letter of September 8th that I voluntarily provided to you in Chicago but your letter dated October 28, 2005 did not address that issue at all.

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returns are in Alison's possession. She is the sole owner of the home we occupy and she feels that her financial privacy is being invaded without any justifiable reason. Moreover it is difficult for me to see how tax returns that cover the years 1999, 2000 and 2001 have any bearing at all upon the Receiver's duties with respect to the current matter in which I am a defendant. Shasta was not even formed until the late spring of 2001 and no funds from Shasta were sent to defendant Tech until early 2002.

Since the Receiver is already in possession of all of the accounting and bank accounts of Edgar, Kaivalya and in possession of our personal joint account at Patriot bank for all of the years 1999 through 2004 you well know or should know that absolutely no funds from defendant Tech were ever paid to me during 1999 or 2000. You also know or should know that in calendar year 2001 I loaned \$150,000.00 of my own personal funds to the corporate entity Edgar who transmitted those funds to Magnum for Tech Trader trading. You also know or should know that any and all funds that were paid back to the corporate entity Edgar in 2001 by Tech Traders represented a partial withdrawal of the principal amount of Edgar source funds placed with Tech. Any payments made to me by Edgar during 2001 were simply repayments of my previous loan to the corporate entity Edgar and all of those transactions were dutifully recorded on Edgar's books which you now have. All of those repayment by Edgar to me in 2001 are non taxable loan principal repayment transactions and so are irrelevant to tax returns filed for 2001.

You also know or should know based upon both the tax returns and accounting records for the entities Kaivalya and Edgar for calendar year 2002 that any payments made to me by Kaivalya were repayments of loan amounts I may have made, in turn, from my own funds to Kaivalya. ALL REPAYMENTS MADE BY KAIIVALYA TO ME IN 2002 WITH THE EXCEPTION OF A TOTAL OF \$3,000.00 MADE IN OCTOBER 2002 WERE MADE BY KAIIVALYA FROM FUNDS THAT WERE RECEIVED BY KAIIVALYA FROM A NON TECH SOURCE--NAMELY REPAYMENTS BEING MADE BY JERRY LATULIPPE TO THE ENTITY KAIIVALYA ON AMOUNTS HIS COMPANIES OWED KAIIVALYA. The Equity Receiver has previously been provided with all of the accounting and bank records of Kaivalya (as well as my own personal joint banking records) to verify that this is true.

I did not receive any payments from my client Equity via Tech until the summer of 2002 and those payments began after more than a year of continuous legal services rendered to both Equity and Shasta and these payments were all received by me in good faith clearly with no knowlege of the fraud being perpetrated by Tech. I was issued a 1099 by the entity Equity for all such payments and proper taxes were paid on all legal fees that were received by me that year.

It was not until 2003 that repayments of my substnatial personal loans to Kaivalya were re-paid by Kaivalya to me as a result of payments basically received during that year by Kaivalya from Tech. It seems from the above facts which you know to be true from all of the records previously provided the Equity Receiver through my previous legal counsel Mennaker & Herrmann the only additional year that you might have any real need to see is the tax return for 2003 since that is the year that I received substantial legal fee payments from Equity and also received legal fee payments from Kaivalya of \$16,425.00 and perhaps a very small legal fee payment from my client Allied. I can understand why you might want to review my tax return for 2003. But since it is a joint return Alison definitely has a "say" in how it is provided to you. She would prefer to allow you access but not a copy. That is something we can discuss.

You have a clear and relatively complete picture of my current expenses and my current income from the previous information provided to you in reseponse to your request of September 8, 2005. I will gladly supply you with any additional current income or current expense info you may still need.

Stephen said he would discuss your request for these additional tax returns with you early next week. Frankly, I do not see any "need" at all from the Equity Receiver's point of view for most of these additional returns. I would be happy to discuss some arrangement to make our joint return for 2003

available to you if you feel that is absolutely necessary but I would like a specific explanation from you about what information you feel that might be on that particular tax return that is necessary to further the Equity Receiver's responsibilities in this matter. Again, Alison will clearly have to have a definite "say" in that matter as it is a joint return filed with her.

My financial privacy and Alison's financial privacy have been violated again and again through out this matter and there has not even been a trial on the merits to determine any liability on my part. Apart from the merits I am very willing and determined (as previously stated) to take to the Third Circuit if necessary on appeal the "shasta is a commodity pool" issue questionably championed by Streit and the CFTC (and an arguably critical key to sustaining all counts of the CFTC's complaint against me).

Please contact me next week after you talk to Stephen.

Regards,

Bob

B

**Declaration under penalty of perjury of
Joy McCormack pursuant to 28 U.S.C. § 1746**

I, Joy McCormack, hereby declare as follows:

1. I am a Futures Trading Investigator with the Division of Enforcement of the United States Commodity Futures Trading Commission ("Commission" or "CFTC"), an independent regulatory agency of the United States Government. I have been employed with the Commission's Division of Enforcement since 1999.

2. As part of the investigation conducted by the Division of Enforcement into the facts surrounding the case of CFTC v. Equity Financial Group, et al., I have been assigned the task of obtaining and reviewing financial and other documents, including records pertaining to bank accounts in the name of Robert Shimer, Kaivalya Holding Group ("KHG"), Edgar Holding Group ("Edgar"), and Equity Financial Group. I have also been assigned the task of investigating the facts surrounding the investments made with Universe Capital Appreciation.

3. I have reviewed and/or analyzed bank account statements and supporting documentation as follows:

a. Mr. Shimer's attorney escrow account ending with numbers 1504 at Patriot Bank ("attorney escrow account") for the period of January 2001 through April 2004. Records for 1999 through 2000 are still unavailable and as a result have not yet been reviewed;

b. Mr. Shimer's joint checking account ending with numbers 5498 at Patriot Bank he shared with his wife Alison Shimer ("joint personal account") for the period of January 1999 through April 2004;

c. Patriot Bank account in name of KHG ending in numbers 0217 ("KHG-0217") for the period of November 2000 through April 2004;

d. Zions Bank account in the name of KHG ending in numbers 1388 ("KHG-1388") for the period of January 1999 through February 2001;

e. Zions Bank account in the name of KHG ending in numbers 1826 ("KHG-1826") for the period of September 1999 through February 2001;

f. Zions Bank account in the name of KHG ending in numbers 3217 ("KHG-3217") for the period of September 1999 through February 2001;

- g. JP Morgan Chase bank account in the name of KHG ending in numbers 2465 (“KHG-2465”) for the period of September 1999 through March 2000;
- h. JP Morgan Chase bank account in the name of KHG ending in numbers 2466 (“KHG-2466”) for the period of September 1999 through July 2000;
- i. First Union Bank account in the name of Edgar ending in numbers 7750 (“Edg-7750”) for the period of January 1999 through March 2001;
- j. Patriot Bank account in the name of Edgar ending in numbers 5377 (“Edg-5377”) for the period of March 2001 through July 2004; and
- k. Farmers and Mechanics bank account in the name of Equity Financial Group ending in numbers 2298 (“EFG-2298”).

4. Through my review of these bank records and other documents to date, I have determined that the joint account appears to be used for joint personal expenses such as an investment into Opus Capital Management, restaurants, travel, clothing stores, etc.

5. Through my review of these bank records and other documents to date, I have learned that Robert Shimer made over \$441,930 in withdrawals from KHG’s various bank accounts as follows:

- a. From 1999 through 2001, Mr. Shimer withdrew \$76,631 to his attorney escrow account;
- b. From 1999 through 2001, Mr. Shimer withdrew over \$88,025 to the joint account;
- c. From 1999 through 2000, Mr. Shimer withdrew \$16,634 to an unknown account;
- d. On November 18, 1999, Mr. Shimer withdrew \$23,000 to an account for his benefit;
- e. From 1999 through 2000, Mrs. Alison Shimer withdrew \$23,940 to the joint account;
- f. From 2002 through 2004, Mr. Shimer withdrew \$27,000 to his attorney escrow account; and
- g. From 2002 through 2004, the Shimers withdrew \$186,700 to the joint account.

6. Because of facts I have learned during the course of this investigation including from the testimony of Mr. Shimer that he accepted customer funds into his attorney escrow account for the purpose of investing into KHG and because I do not have a complete set of records for that account, I did not attempt to list here the amounts which Mr. Shimer may have transferred into the various KHG accounts.

7. Through my review of stated bank records and other documents to date, I have learned that Mr. Shimer made over \$159,750 in transfers to Edgar's various bank accounts and withdrew \$234,550 as follows:

- a. In 2001, Mr. Shimer transferred \$152,000 to Edgar Holding Group from the joint account and withdrew \$180,350 to the joint account; and
- b. From 2002 through 2004, Mr. Shimer transferred \$7,750 to Edgar Holding Group from the joint account and withdrew \$54,200 to the joint account.

8. Through my review of bank records and other documents, I have learned that Mr. Shimer withdrew \$266,467 from Equity Financial Group account number 2800982298 as follows:

- a. From 2002 through 2004, Mr. Shimer withdrew \$260,367 to the joint account; and
- b. From 2002 through 2004, Mr. Shimer withdrew \$6,100 to his attorney escrow account.

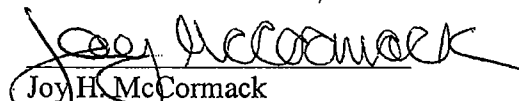
9. The KHG bank records reflect that between 2002 and 2004 it received over \$1,314,000.00 from Tech Traders.

10. From my review of the KHG bank records and testimony by Mr. Shimer, I have determined that KHG transferred funds to OAT Corporation, a company run by Mr. David Perkins, manager of Universe, including a \$50,000 "gift."

11 Overall, the bank records reflect that between 1999 and 2004, Mr. Shimer personally received over \$942,000 from KHG, Edgar and Equity.

12. As part of the investigation conducted by the Division of Enforcement into the facts surrounding the case of CFTC v. Equity Financial Group, et al., I also was assigned the task of obtaining and reviewing investor questionnaires submitted by persons and entities that placed funds with Shasta Capital Associates ("Shasta") and Universe Capital Appreciation, LLC ("Universe"). Attachment 1 to this Declaration is a true and correct copy of the investor questionnaire for Alison Shimer regarding her investment in Shasta which I obtained from the records produced by Defendant Vincent Firth. Attachment 2 to this Declaration is a true and correct copy of the investor questionnaire for the George Shimer Trust account regarding the Trust's investment in Universe which I obtained from David Perkins, Manager of Universe. I have learned from Mr. Shimer that he and his brother Stephen Shimer (now deceased) were the trustees for this trust.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 22nd day of December 2005.


Joy H. McCormack
Investigator

Att. 1

INVESTOR QUESTIONNAIRE

The undersigned confidentially represents and warrants the answers to the following information requested by Shasta Capital Associates.

- 1. Investor name(s) ALISON E. SHIMER
- 2. Date of Birth 11-14-1948 If corporation, date of incorporation: _____
- 3. Education: High School _____; College x _____; Graduate School _____
- 4. Principal Residence address: 1225 W. LEESPORT RD, LEESPORT, PA 19533
If a corporation, place of incorporation: _____
- 5. Contact Phone number: (610) 926-2600
- 6. Fax number: (610) 926-8828
- 7. E-mail address: dator@epix.net
- 8. Occupations or employment positions held during last 5 years:
PRIVATE INVESTOR
- 9. Net worth, or Joint net worth with spouse:
____ Less than \$1,000,000.00
x More than \$1,000,000.00
If a corporation, does the company's assets exceed \$5,000,000.00? Yes _____ No _____
- 10. Of your net worth, set forth the approximate percentage which constitutes personal residence, automobiles, furniture, jewelry and personal effects: 30 %
- 11. Did you have income greater than \$200,000.00 last year and the year prior to last year?
Yes _____ No x
- 12. If no, what was your income for last year? 100,000 r

13. Do you expect your income for the current year to exceed \$200,000.00?
Yes ___ No x

14. Have you ever participated in or purchased securities in a "private placement" offering of securities before?
Yes x No ___

15. If the answer to question 10 is "yes" what type(s) of private placement?
OIL + GAS, PRIVATE PLACEMENTS (VARIOUS)

16. Do you maintain an active account with a securities brokerage firm?
Yes x No ___

17. List any other information that would be relevant to the question of whether you are a "sophisticated" investor.
I previously had a commodity trading acct.

18. The undersigned states that his or her investment objectives are as follows:
CAPITAL APPRECIATION

Date: 8.31, 2003

Signature Alison E. Shimer

Printed name ALISON E. SHIMER

Signature _____
(if more than one individual purchaser)
Printed Name _____

If Corporation or business entity:

Company Name

BY: _____
Signature

Print name and position held

Att. 2

INVESTOR QUESTIONNAIRE

The undersigned confidentially represents and warrants the answers to the following information requested by Universe Capital Appreciation, LLC.

1. Investor name(s) GEORGE W. SHIMER TRUST

2. Date of Birth N/A ^{TRUST} If corporation, date of incorporation: 3/29/93

3. Education: N/A High School _____; College _____; Graduate School _____

4. ~~Principal Residence~~ address: 1225 W. LEESPORT RD, LEESPORT, PA 19533

If a corporation, place of incorporation: PA.

5. Occupations or employment positions held during last 5 years:

N/A

6. Net worth, or ^{OF BENEFICIARIES} ~~Joint net worth with spouse:~~ BOTH BENEFICIARIES OF THIS TRUST ARE ACCREDITED INVESTORS WITH A NET WORTH EXCEEDING \$1 MILLION
____ Less than \$1,000,000.00
 More than \$1,000,000.00

If a corporation, does the company's assets exceed \$5,000,000.00? Yes _____ No _____

7. Of your net worth, set forth the approximate percentage which constitutes personal residence, automobiles, furniture, jewelry and personal effects: 15 %

8. Did you have income greater than \$200,000.00 last year and the year prior to last year?

Yes _____ No

9. If no, what was your income for last year? _____

10. Do you expect your income for the current year to exceed \$200,000.00?

Yes No _____

11. Have you ever participated in or purchased securities in a "private placement" offering of securities before?

BOTH BENEFICIARIES

Yes No

12. If the answer to question 10 is "yes" what type(s) of private placement?

HEDGE FUNDS; GILT OAS

13. Do you maintain an active account with a securities brokerage firm?

Yes No

14. List any other information that would be relevant to the question of whether you are a "sophisticated" investor.

15. The undersigned states that his or her investment objectives are as follows:

CAPITAL GROWTH AND INCOME

Date: *MARCH 15*, 2003

Signature _____

Signature _____

(if more than one individual purchaser)

Printed name _____

Printed Name _____

If Corporation or business entity:

GEORGE W. SHIMER TRUST
Company Name

BY: _____



Signature

*ROBERT W. SHIMER,
TRUSTEE*

Print name and position held

C

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF NEW JERSEY
 3 CAMDEN VICINAGE
 4 COMMODITY FUTURES TRADING COMMISSION,)
 5)
 6 Plaintiff,)
 7) Civil Action
 8 vs.) No. 04-1512
 9)
 10 EQUITY FINANCIAL GROUP, LLC, TECH)
 11 TRADERS, INC., TECH TRADERS, LTD.,)
 12 MAGNUM INVESTMENTS, LTD., MAGNUM)
 13 CAPITAL INVESTMENTS, LTD., VINCENT J.)
 14 FIRTH, ROBERT W. SHIMER, COYT E.)
 15 MURRAY, and J. VERNON ABERNETHY,)
 16)
 17 Defendants.)
 18
 19 VOLUME II
 20 The continued discovery deposition of.
 21 ROBERT W. SHIMER, taken pursuant to notice and the Federal
 22 Rules of Civil Procedure for the United States District
 23 Courts, reported by Susan Soble, a Certified Shorthand
 24 Reporter and Notary Public for the County of Cook and State
 of Illinois, at 525 West Monroe Street, Suite 1100, Chicago,
 Illinois, on Tuesday, Wednesday, October 19, 2005, at the
 hour of 9:00 o'clock a.m.

SUSAN SOBLE ASSOCIATES, P.C.
 Certified Shorthand Reporters
 1460 North Clark Street - 2611
 Chicago, Illinois 60610
 (312) 988-9868

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1 APPEARANCES:
 2 MS. ELIZABETH STREIT, Supervisory Trial Attorney, and
 3 MS. JOY McCORMAK, Investigator
 4 U.S. Commodity Futures Trading Commission
 5 525 West Monroe Street - 1100
 6 Chicago, Illinois 60661
 7 (312) 596-0700
 8
 9 appeared on behalf of the Plaintiff;
 10
 11 SACHNOFF & WEAVER, LTD., by:
 12 MS. BINA SANGHAVI
 13 10 South Wacker Drive
 14 Chicago, Illinois 60606-7505
 15 (312) 207-3916
 16
 17 appeared on behalf of the Equity Receiver,
 18 Steven Bobo;
 19
 20
 21
 22
 23
 24 *****

1 ROBERT W. SHIMER,
 2 having been previously duly sworn, was further examined and
 3 testified as follows:
 4 DIRECT EXAMINATION (Resumed)
 5 BY MS. STREIT:
 6 Q Mr. Shimer, you know that you're still under oath?
 7 A Yes.
 8 Q Is it, if we are not able to finish on Thursday
 9 night, would it be possible for you to stay 'til Friday?
 10 A I really would like to get back. You have no idea
 11 how inconvenient it was for me to come out here. I really
 12 have tried to accommodate you guys on this thing. We had
 13 that discussion with you by e-mail.
 14 I would like to get back Thursday night. My
 15 wife needs me for about a dozen things she's doing. Let me
 16 get through this thing by Thursday. Are we on the record?
 17 Q Yes, we are on the record. I may be able to
 18 finish. I'm not sure the receiver will be, she has
 19 questions as well, so that's the issue.
 20 I would ask that maybe if we start moving more
 21 toward what I would consider to be questions more related to
 22 the claim or defense in the present action, which would
 23 involve Shasta or any of these entities directly involved
 24 with Shasta, there were some peripheral questions with

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1 he controlled and on request, on Edgar's behalf he was
2 returning funds that he acknowledged was owed to Edgar.

3 Q And do you think the fact that you were receiving
4 funds back from a different entity was a red flag?

5 A Not to me.

6 Q Why not?

7 A I didn't even really, I didn't think much about it.
8 If he wants to use one account to receive funds and another
9 account to trade from, that's his business. It didn't raise
10 a red flag at all in my mind.

11 Why would it?

12 Q Well, as a lawyer you know you sent money to one
13 corporation and some other corporation is sending it back.

14 A Right.

15 Q So you have no idea what the agreement is between
16 those two entities and whether Magnum owes money to Tech
17 Traders or Tech Traders has any kind of a relationship with
18 Magnum.

19 It's a separate corporation, right?

20 A That's correct.

21 Q And you don't know who the officers or directors of
22 either of those corporations are, do you?

23 A I know they are controlled by Coyt Murray.

24 Q That's what it appeared to you?

1 A That's right.

2 Q Okay. Why?

3 A Edgar repaid to me part of the loan that I made to
4 Edgar.

5 Q Okay. So the first money that comes in you
6 immediately take it all out, right?

7 A That's right.

8 Q And you didn't pay Mr. Marrongelle any money,
9 right?

10 A Mr. Marrongelle didn't ask for any money at the
11 time.

12 Q You didn't pay Mr. Mt. Shasta any money, right?

13 A He didn't ask for any money at the time.

14 Q Did he have to ask for money to get money back?

15 A Yeah, the arrangement with Peter was that the funds
16 would stay in for a certain period of time. I don't believe
17 it was a demand note and if he would have demanded the
18 funds, then I would have dealt with that situation and
19 withdrawn funds.

20 Basically I was asking for funds out from
21 Edgar. I had placed \$150,000 of my own money, lent it to
22 Edgar and Edgar was repaying my loan to Edgar. Seemed
23 pretty straightforward to me.

24 Q And so if Coyt's system didn't turn out to be

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1 A Yes.

2 Q As a lawyer wouldn't you be concerned that you send
3 money to one entity and another entity sends it back.

4 You wouldn't be concerned about that as a
5 lawyer; is that what you're saying?

6 A Ordinarily -- I think by this time he had said that
7 the trading operation, it was clear that the trading
8 operation was in the name of Tech Traders now.

9 So in the beginning it may have been unclear
10 to me whether it was Tech or Magnum. He said send the funds
11 to Magnum. I was interested in placing funds with him and
12 beginning this association. So they were sent to Magnum
13 because that's the account he gave me. I mean I guess you
14 can read all kinds of nefarious motives into it or lack of
15 due diligence, but it was a simple transaction.

16 I was dealing with Coyt. He had two
17 companies. He received the funds from one and five months
18 later when I requested funds back out, they came back out.
19 It didn't raise any red flags in my mind at all.

20 Q Okay. Well, looking back at this page again, 6763,
21 Tech Traders sends you \$40,000, right?

22 A Yes.

23 Q You immediately withdraw all of that money and put
24 it into your personal account, right?

1 profitable, how were you going to repay these people the
2 money when you took all the profits out for yourself?

3 A I was, well, at this point in time and by May I had
4 received, what, statements for January, February, March and
5 April showing exactly what I had anticipated when we placed
6 the initial funds with Edgar, an extremely profitable
7 trading system based on reports that I had received from
8 Coyt. So at that point in time I was feeling very
9 comfortable that this was a profitable trading system.

10 Q How did you know it would continue to be
11 profitable?

12 A How do we know the sun's going to come up tomorrow?

13 Q Well, Mr. Shimer, you know that in the real world
14 in many cases commodity pools do not make consistent money
15 month after month after month, right?

16 A That's true.

17 Q And particularly here you had a four-month history
18 with this.

19 A That's true.

20 Q How were you to know that they would continue to be
21 profitable on into the future?

22 A I didn't. But I had an expectation which I thought
23 was reasonable based on the numbers that he was providing me
24 that it would continue to be profitable.