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**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)
CAPITAL INVESTMENTS, LTD.,)
MAGNUM 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

**FIFTH APPLICATION OF FGМК, LLC FOR
INTERIM COMPENSATION AND EXPENSE REIMBURSEMENT**

FGМК, LLC (“FGМК”), the accountants for Stephen T. Bobo as Equity Receiver (the “Receiver”) for Equity Financial Group, LLC, Tech Traders, Inc., Tech Traders, Ltd., Magnum Investments, Ltd., Magnum Capital Investments, Ltd., Vincent J. Firth, and Robert W. Shimer (collectively the “Receivership Defendants”), requests an award of interim compensation in the amount of \$22,235.23 for services rendered from April 1, 2005 through June 30, 2005.¹

¹ FGМК has not incurred expenses during this time period.

BACKGROUND AND CASE STATUS

1. On April 1, 2004, the Commodity Futures Trading Commission (the "CFTC") filed its Complaint and Motion for *Ex Parte* Statutory Restraining Order with the Court, seeking injunctive relief and civil monetary penalties against the Defendants Equity Financial Group, LLC, Tech Traders, Inc., Vincent J. Firth, and Robert W. Shimer. On the same day, the Court entered an order granting the CFTC's motion for the restraining order and appointing Stephen T. Bobo as Temporary Equity Receiver for the Defendants and their assets.

2. In late April of 2004, with the Court's approval, the Receiver employed the accounting firm of FGМК, LLC ("FGМК") in Bannockburn, Illinois. From the inception of this engagement, FGМК has been charged with accounting for the Receivership Defendants' receipt, use and disposition of investor funds totaling over \$43 million.

3. In light of additional facts that emerged during the CFTC's ongoing investigation, on August 12, 2004, the CFTC filed its Amended Complaint, naming five additional Defendants, including Coyt E. Murray, J. Vernon Abernethy, Tech Traders, Ltd., Magnum Investments, Ltd., and Magnum Capital Investments, Ltd. As of August 24, 2004, all named Defendants consented to the Court's entry of a preliminary injunction. Pursuant to the Court's preliminary injunction orders, Mr. Bobo serves as the Receiver for Tech Traders, Inc., Tech Traders, Ltd., Magnum Investments, Ltd., Magnum Capital Investments, Ltd., Equity Financial Group, LLC, Vincent Firth, and Robert Shimer.

4. At this time, FGМК has completed its analyses on the transactions of Tech Traders and Shasta and its affiliates. Only a handful of unidentified transactions remain. Unfortunately, in light of document retention policies, the banking institutions and brokerage firms have been unable to provide all requested documentation. In sum, FGМК reviewed and

analyzed records for approximately 50 bank and trading accounts in the names of the Defendants, including accounts at brokerage firms Forex Capital Markets, Global Forex Trading, Man Financial, Rosenthal Collins Group, and REFCO, and banking institutions Bank of America, Citicorp, Farmers & Mechanics Bank, Patriot Bank, Sterling Bank, Sun National Bank, Branch Banking & Trust, and Wachovia National Bank (formerly First Union National Bank).

5. FGMK continues its efforts to complete the financial analysis of the Magnum Investments, Ltd. and Magnum Capital Investments, Ltd. bank and trading accounts. Because not all the records are yet available for Magnum Investments, Ltd. and Magnum Capital Investments, Ltd., FGMK has not been able to complete its analysis of the relevant accounts.

6. FGMK communicates regularly with the Receiver and his counsel to ensure that the financial summaries and detailed analysis for these approximately 50 accounts is organized for the benefit of and ready use by the Receiver and his counsel. During the second quarter of 2005, in light of FGMK's familiarity with these accounts, the Receiver sought FGMK's assistance to identify and locate supporting documentation for relevant transactions at the Tech Traders level involving the Sterling entities. This information assisted the Receiver in his preparation for the May 13, 2005 evidentiary hearing on discovery issues relating to the Sterling entities.

7. The accountants have also assisted the Receiver in identifying discrepancies in proofs of claims submitted by investors, allowing the Receiver and his counsel to follow up with investors regarding these discrepancies in relatively short order.

NATURE OF SERVICES RENDERED AND EXPENSES INCURRED

8. From April 1, 2005 through June 30, 2005, FGMK has provided 94.80 hours of professional services related to the accounting of Receivership Defendants' receipt, use, and

disposition of investor funds. A copy of FGМК's statement of services is attached as Exhibit A to the Declaration of Stephen T. Bobo as Equity Receiver in Support of the Fifth Fee Applications for Interim Compensation and Expense Reimbursement of Sachnoff & Weaver, Ltd., Pepper Hamilton LLP, and FGМК, LLC.

9. In its April 1, 2004 Order, the Court directed all personnel hired by the Receiver to file fee applications on a quarterly basis. On June 23, 2005, FGМК filed its fourth fee application with the Court for services rendered during the first quarter of 2005. In its fourth fee application, FGМК requested fees in the amount of \$55,533.33 and reimbursement of expenses in the amount of \$782.90, which the Court approved on August 4, 2005.

10. Pursuant to the Court's directive, FGМК files this fifth fee application for the second quarter of 2005.

Accounting of Receivership Defendants' Receipt, Use, and Disposition of Investor Funds

11. FGМК seeks compensation for 93 hours of professional services from April 1, 2005 through June 30, 2005 related to the accounting of Receivership Defendants' receipt, use, and disposition of investor funds. These matters include:

- a. Furthering the financial analysis of 21 bank accounts and 28 trading accounts following the accountants' receipt and review of recently produced financial records;
- b. Updating the financial analysis of Magnum Investments, Ltd. and Magnum Capital Investments, Ltd. bank accounts in light of recently produced bank records;
- c. Updating the financial analysis of Robert Shimer's joint checking account maintained with his wife, Alison Shimer, at Patriot Bank;
- d. Reporting results of the firm's accounting work to the Receiver and his counsel;

e. Assisting in the investor claim process by identifying discrepancies in proofs of claims submitted by investors; and

f. Modifying the presentation of the financial information and analysis for the benefit of the Receiver, the Court, the parties, and the investors.

THE REASONABLENESS OF THE COMPENSATION REQUESTED

12. At this stage in the engagement, Mark Pearson and Mike Rakers, managers at FGMK, have been performing almost all of the accounting work. Their knowledge of the details this case has allowed them to work at significantly higher efficiency than less knowledgeable individuals. In addition, their understanding of the case and their forensic accounting experience has enabled them resolve discrepancies between the various account summaries and to avoid double counting of transactions between related accounts. With the significant size of this case and the nearly 50 different accounts involved, their familiarity with the details has provided for more accurate financial analysis. In those instances where FGMK has used a junior-level accountant, these managers have reviewed the junior-level accountant's work product on an ongoing basis. Finally, FGMK continues to confer with the Receiver and his counsel on a regular basis regarding how best to accomplish the Receiver's goals while remaining conscious of costs to the receivership estate.

13. FGMK seeks compensation for its accountants at their customary hourly rates minus a 5 percent discount for this matter. These rates range from \$145.00 to \$320.00. The following table summarizes the total time and fees sought for each accountant:

<u>Timekeeper</u>	<u>Practice Group</u>	<u>Total Hours</u>	<u>Hourly Rate</u>	<u>Compensation Requested</u>
Mark Pearson	FGMK	39.50	\$285.00- \$305.00	\$11,935.50
Mike Rakers	FGMK	22.50	\$310.00	\$6,975.00
Bill Polash	FGMK	1.80	\$320.00	\$576.00
Emil Herrera	FGMK	<u>31.00</u>	\$145.00	<u>\$4,495.00</u>
		94.80		
			Less Bill Polash's time	\$576.00
			5% discount	<u>\$1,170.28</u>
			FEE TOTALS	\$22,235.23

14. The accountants of FGMK have kept time in tenths of an hour, or six-minute increments. In an effort to avoid charging for services that could be deemed excessive, duplicative or unnecessary, FGMK does not seek compensation for administrative or ministerial tasks and has not billed for the time spent by a partner to attend a meeting with the Receiver concerning the transition of the case from one manager (Mark Pearson) to another (Mike Rakers).

15. Finally, along with the Receiver and his counsel, FGMK agreed to take on this case with no assurance that funds would exist in the Receivership Defendants' estate to compensate FGMK for professional services. FGMK does not hold a retainer for the services that its accountants continue to provide to the Receivership Defendants. Moreover, FGMK has acted in a prompt and efficient manner in assisting the Receiver in his administration of the estate. For these reasons, FGMK appears deserving of the full amount of the compensation requested.


WHEREFORE, FGMK respectfully requests that this Court enter an order:

1. Allowing interim compensation in the amount of \$22,235.23 to FGMK for professional services provided from April 1, 2005 to June 30, 2005;

2. Authorizing the Receiver to pay FGМК the amount of \$22,235.23 in fees from the receivership estate; and
3. Providing such further relief as may be appropriate in these circumstances.

Respectfully submitted,

STEPHEN T. BOBO,
Equity Receiver

By: 
One of his attorneys

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