

[Doc. No. 100]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE
HONORABLE ROBERT B. KUGLER

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

EQUITY FINANCIAL GROUP, LLC,
et al.,

Defendants.

Civil No. 04-1512-RBK-AMD

ORDER

THIS MATTER having been brought before the Court by way of motion of Stephen T. Bobo (the "Receiver"), the Equity Receiver for Equity Financial Group, LLC, Tech Traders, Inc., Tech Traders, Ltd., Magnum Investments, Ltd., Magnum Capital Investments, Ltd., Robert W. Shimer and Vincent J. Firth, for authority to make an interim distribution on account of investor claims. Notice of the motion was served on all known investors of the Defendants, as well as on the parties to the case. The Court having considered the motion and papers filed in support of it, as well as the objections received to the motion, as well as the Report and Recommendation submitted by the Honorable Ann Marie Donio, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b)(1)(B) and (C); and the Court having made a de novo review; and for good cause shown:

IT IS on this 26th day of September, 2005

ORDERED that the Report and Recommendation is **ADOPTED**;
and it is further

ORDERED that the proposed interim distribution is **GRANTED**
as modified below, and the objections to the interim distribution
are ruled upon as follows:

1. The objections of the following claimants are overruled to the extent they contest the interim distribution: (a) Marsha Green [119]; (b) Thomas List [117]; (c) Alison Shimer [116]; (d) Nancy Omaha Boy [129]; (e) Jeffery and Barbara Marongelle [126]; (f) James Roberts. The objections by these claimants as to their placement on the Disputed Claims Interim Schedule shall be determined by the Court in accordance with the Schedule set by the Court by Order dated August 18, 2005.

2. The objections of the following claimants are overruled: Paul McManigal [125]; Steven Corcoran [115]; Triester International Trading Corp. [127]; and R. Scott Batchelar [176].

3. The objection of plaintiff, Commodity Futures Trading Commission ("CFTC") [121] to place Quest For Life's claim on the Disputed Claims Interim Distribution Schedule is sustained.

4. The objections of ICC Finance Corporation [124] are overruled.

5. The objections of Don Zinman [120, 134] are overruled.

6. The objections by Equity Financial Group, LLC [122] are dismissed as moot.

7. The objections of Stable Absolute Return [118] are overruled.

8. The objections of Donald DiIenno [108, 135, 149] are overruled in part and dismissed as moot in part with respect to treatment of Shasta as a Tier I investor.

9. The objections of the Sterling entities [123, 165, 194] as they relate to the interim distribution are overruled. Sterling shall be provided a hearing on the issue of aggregation in connection with resolution of the Disputed Claims. Sterling has reserved its objection on the ground that the proposed distribution does not include the release of the funds held in Sterling (Anguilla) Trust's name at Man Financial.

IT IS FURTHER ORDERED that entity investors must disclose the identity of all persons having a beneficial interest of any kind in the investor entity as set forth in the Report and Recommendation. For this reason, BPU Banca Popolare Commercio Industria International - claim 7 shall be placed on the Disputed Claims Interim Distribution Schedule.

IT IS FURTHER ORDERED that for purposes of the interim distribution, Shasta Capital Associates, LLC shall be treated as a Tier I investor as set forth in the Report and Recommendation.

IT IS FURTHER ORDERED that the Receiver is authorized to make an initial distribution of thirty-eight percent (38%) of allowed investor claims from receivership funds.

IT IS FURTHER ORDERED that the Receiver shall determine the interim distribution amount for each claim in the following manner:

1. Only actual amounts invested with the Defendants shall be included in allowed claims. Claims based on profits, interest, or other accruals reported by the Defendants shall not be allowed;

2. Multiple accounts in which an investor has a beneficial interest shall be consolidated to the extent of such beneficial interest for purposes of distribution;

3. Each investor holding an allowed claim shall receive a thirty-eight percent (38%) pro rata distribution from the funds of Defendant Tech Traders, less any distributions previously received;

4. The interim distribution amount for each claim shall be calculated first by multiplying the total amount invested by thirty-eight percent (38%). This results in each investor's gross pro rata distribution amount (the "Gross Distribution Amount");

5. From each investor's Gross Distribution Amount, the total of all withdrawal amounts already received by that investor on account of its investments with the Defendants is then subtracted. This difference, the "Net Distribution Amount," is the

amount that the Receiver is authorized to distribute on account of allowed claims; and

6. The Receiver will reserve the Net Distribution Amount for claims that have not yet been determined to be allowable. Should this Court determine that some or all of an investor's claim amount should be disallowed, then the Receiver shall distribute the Net Distribution Amount corresponding to the portion of the claim which was allowed and shall transfer the Net Distribution Amount corresponding to the disallowed portion of that claim from reserved funds back to general receivership funds.

IT IS FURTHER ORDERED that the Receiver shall file a revised interim distribution schedule consistent with this Order.

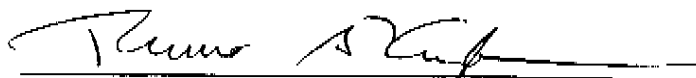
IT IS FURTHER ORDERED that sufficient funds be reserved from the interim distribution in the event the Court consolidates the Magnum investors in this action.

IT IS FURTHER ORDERED that where claims are submitted on behalf of groups of investors or entities through which multiple persons have invested with the Defendants, the Receiver shall approve how such investment groups or entities allocate among their members the distributions that they receive from the receivership estate. An authorized representative of each such group of investors or entity shall submit to the Receiver a proposed means of allocating distribution funds among those having a beneficial interest in the funds. Upon review and approval of the proposed allocation, the Receiver will release the Net Distribution Amount

for that investment group. Within forty-five (45) days after the distribution is received by the respective investment group, the authorized representative of that investment group shall submit to the Receiver a declaration under oath attesting to the manner in which the investment group actually allocated the distribution funds among its members, along with copies of the checks or other documents showing the disbursements made to the members.

IT IS FURTHER ORDERED that any funds deposited into Shasta or Tech Traders accounts after the April 1, 2004 order shall be returned.

IT IS FURTHER ORDERED that the Receiver is authorized and directed to return the following amounts invested with Shasta after the entry of the April 1, 2004 restraining order which froze the Defendants' accounts: Michael Duff - \$200,000.00; Jolin Investments - \$100,000.00; and Broadtree Reinsurance Company, Ltd. - \$150,000.00. The Receiver shall continue to hold the \$47,000.00 invested by Dr. Marsha Green on April 2, 2004 until this Court can determine the Receiver's objections to and set off rights against her claim.



ROBERT B. KUGLER,
UNITED STATES DISTRICT JUDGE

cc: See Attached Service List

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Equity Financial Group, LLC, et al.
Civil No. 04-1512

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