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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)
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

**BRIEF OF EQUITY RECEIVER IN SUPPORT OF MOTION FOR
ENTRY OF TURNOVER ORDER DIRECTED AT MCDERMOTT WILL & EMERY**

Stephen T. Bobo, as Equity Receiver (the "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, by his attorneys, requests that the Court enter an Order directing the law firm of McDermott Will & Emery ("MWE") to turn over to the receivership estate the sum of \$164,362.43 that MWE originally received from Tech Traders, Inc. as retainer funds, that MWE froze following this Court's entry of its Statutory

Restraining Order and Order Appointing Receiver on April 1, 2004, and that today remain frozen under MWE's control. In support of his motion, the Receiver states as follows:

Background. On December 31, 2003, Tech Traders, Inc. and Tech Traders, Ltd. retained MWE to provide legal services in connection with the Commodity Futures Trading Commission's regulations. (See S. Bobo Affidavit, attached hereto as Ex. A, and Att. 1 to that Affidavit). On February 13, 2004, Coyt E. Murray, President of Tech Traders, Ltd. and Tech Traders." (See id. and Att. 2 to that Affidavit). As of April 8, 2004, MWE had terminated its representation of Tech Traders, Inc., Tech Traders, Ltd. and Coyt E. Murray in his individual capacity. (See id. and Att. 2 to that Affidavit).

The Funds at Issue. Between January 1, 2004 and April 1, 2004, when the Court entered the Statutory Restraining Order and Order Appointing Receiver, Tech Traders, Inc. transferred a total of \$246,000 in retainer funds to MWE. Of this \$246,000, MWE applied \$81,637.57 to invoices submitted to Tech Traders, Inc., Tech Traders, Ltd. and Coyt E. Murray in his individual capacity for legal services provided to Tech Traders, Inc., Tech Traders, Ltd. and Coyt E. Murray in his individual capacity. According to MWE, it has frozen the remaining \$164,362.43 "pending final resolution of this matter" and has not applied any retainer funds to charges for services it provided "for April and May [2004], which total over \$70,000." (See id. and Att. 3 to that Affidavit).

MWE Should not be Permitted to Retain all the Funds at Issue. Although the Receiver is aware that MWE represented Tech Traders during the first week of April 2004, he is not aware that it provided substantial services to Tech Traders during that period or that it provided any services after that period. He therefore takes issue with MWE's contention that it provided \$70,000 worth of services "for April and May [2004]." MWE has no justifiable reason

for retaining the entire additional \$164,362.43 it received from Tech Traders, Inc. and should be ordered to release those funds to the receivership estate, or, those funds less reasonable compensation for the services provided to Tech Traders, Inc. in early April 2004. MWE would be unjustly enriched to the detriment of Tech Traders' investors if permitted to retain the entire \$164,362.43. The Receiver has circulated a draft of this document to the CFTC and has been informed that it has no objection to the relief sought. By seeking this relief, the Receiver in no way waives any other rights or claims that Tech Traders, Inc. or Tech Traders, Ltd. may have against MWE.

WHEREFORE, the Receiver, on behalf of Tech Traders, prays that this Court:

- (a) enter an Order directing MWE to turn over to the receivership estate the sum of \$164,362.43 that MWE originally received from Tech Traders, Inc. as retainer funds or, to turn over to the receivership estate \$164,362.43 less reasonable compensation for the services provided to Tech Traders, Inc. in early April 2004; and
- (b) grant such further relief to the Receiver as is equitable and appropriate under the circumstances.

DATED: November 15, 2005

Respectfully submitted,
STEPHEN T. BOBO
Equity Receiver

By: s/ Jeffrey A. Carr
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