J.R. Nerone, Esq. (CA Bar # 49675)
19358 Blythe Street
Reseda, CA 91335
(818) 772-2118

Attorney for Investor Don Zinman (Claim No. 88)

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.	)	**Hearing date: February 18, 2005**

INVESTOR DON ZINMAN (CLAIM NO.: 88), THROUGH HIS ATTORNEY J.R. NERONE, HEREBY OBJECTS TO THE EQUITY RECEIVER FOR THE DEFENDANTS' PROPOSED INTERIM DISTRIBUTION PLAN, AS STATED IN THE SUPPORTING PAPERS FOR HIS MOTION.FOR AUTHORITY TO MAKE INTERIM DISTRIBUTION ON ACCOUNT OF INVESTOR CLAIMS

Objector, Donald Zinman, respectfully represents:

1. Objector, Donald Zinman, (Claim No.: 88) invested a total of $250,000 into his Shasta Capital Associates, LLC (Shasta) account by making two separate payments. The first, in the amount of $150,000, was wired to Shasta on February 25, 2004 (thirty-four days before the Commodity Futures

assets and suspended their operations on the afternoon of April 1, 2004." [See p. 1, para. 24] He mentions the investors referred to in the letter of Robert Shimer [See p. 2, 3rd para. of Exhibit B], whose investment payments to Shasta were received after April 2, 2004. In his affidavit, the Receiver indicates that all but one of these persons should receive their full investment. His reason for recommending exclusion of a single investor among the post-April 1, 2004 group is not germane to Objector's situation. [See p. 9, para. 25]

3. In the Memorandum in Support of Motion, etc., the Receiver refers to this Court's April 1, 2004 Order prohibiting all defendants from "withdrawing, transferring, removing, dissipating or disposing of funds" held in their accounts. Citing Anderson v. Stephens, 875 F.2d 76,78 (4th Cir 1989), he states that "the general purpose of a freeze order ...is to maintain the status quo and prevent additional losses to customers." [See p. 21, para. 46] It makes no logical sense, and serves no principle of justice and/or equity, to cause more injury to an innocent investor (Objector) by confiscating the $100,000, which was never at risk, because, at the time of the CFTC freeze, said amount was in Shasta's Citibank Escrow Account. The Receiver mistakenly places Objector's $100,000 check in the same class, as all the previous monies conveyed from Shasta to Tech Traders, theorizing that all of the investors were exposed to the risk at the same time, and that each individual investor's account is untraceable. In fact, this Court's Order protected Objector, as to these funds, from becoming a victim a second time. There's no mystery regarding traceability of Objector's post-dated April 17, 2004 check, which should not have been cashed until that date, which

nevertheless cleared Shasta's account, as good funds, on March 29, 2004. The $100,000 is easily traceable to investor Don Zinman, [See Shimer's letter, p.1, Exhibit B] It was never put at risk. Had Objector received notice of the freeze order on April 1, 2004, he would have exercised his Common Law right to rescind the apparently fraudulent agreement. A defrauded party to a contract may either rescind the contract and sue for fraud, or affirm the contract and sue for damages. [See In re TedlockCattle Company, Inc., 552 F.2d 1351, at 1352 [1] (1977)] The April 1, 2004 freeze order stopped all of Shasta's banking activity. By doing so, it protected Objector Zinman from further victimization, and afforded him an opportunity, at the moment of the freeze, to rescind his contract with Shasta before said $100,000 was placed at risk with Tech Traders. Objector is entitled to a full refund of the $100,000 in the Shasta account on the day of the freeze. To do otherwise does not maintain the status quo, as of April 1, 2004. It arbitrarily and unnecessarily harms an innocent investor, and adds insult to insult and injury to injury. It violates the very purpose of the freeze order, i.e. "... to prevent additional losses to customers." Anderson v. Stephens, supra.

4. In the matter of the Receiver's proposed distribution relative to Objector's initial February 25, 2004 investment ($150,000), which Shasta invested in Tech Traders' account (thirty four days before the April 1, 2004 freeze order), investor Zinman objects to said plan, which pertains to all investments prior to the freeze order, with due respect for the Receiver's good intentions, as being injudiciously simplistic. The Receiver relies on Cunningham v. Brown, 265 U.S. 1 (1923) (*the Ponzi Case*) as authority for lumping together all of the investors

who placed their money at risk, over a four year period of time, in the constantly fluctuating futures market. His well-meaning but too easy solution is to distribute 38% of each investor's total investment as the return on their investment. This is patently unfair to investors who only came on board in the last year, month or week before the freeze. Traceable historical records of all investors' payments to each of the defendants are in the possession of the Receiver. According to the Receiver's supporting Affidavit, he has records of all of the Tech Trader's month to month futures transactions. [See p. 3, para. 7 and pgs. 2 through 7]. If there are any difficulties tracking Tech Traders day to day service records held by the Receiver, these records should be made available by the commodity brokerage houses used by Tech Traders. In Cunningham v. Brown, Id., the court recognizes the lack of equity in the approach recommended by the Receiver when it is possible to track the investor contributions, the fate of those contributions, and the execution of trades by Tech Traders. In *the Ponzi Case* it was not possible to distinguish between the victims. There was no way to track the investments, the profits, and/or losses over time. In fact, the funds in question were not investments, but loans, to Mr. Ponzi. The court in Cunningham v. Brown (*the Ponzi Case*) differentiates the factual situation before it, from the facts of *Clayton's Case,* citing Lord Chancellor Elden's holding in *Clayton's Case,* 1 Merivale, 572 (1816):

> "... [I]n a fund in which were mingled the moneys of several defrauded claimants insufficient to satisfy them all, the first withdrawals were to be charged against the first deposits

> and the claimants were entitled to be paid in inverse order in which their monies went into the account. Ponzi's withdrawals from his account with the Hanover Trust Company ... were made before defendants had indicated any purpose to rescind. Ponzi then had a defeasible title to the money he had received from them and could legally withdraw it. By the end ... he had done so and had exhausted all that was traceable to their deposits. The rule in *Clayton's Case* has no application."
>
> Cunningham v. Brown, Id. at 12, [underling added]

The factual situation before this Court is *Clayton's Case*, not, as the Receiver contends, *the Ponzi Case,* where connecting the investors, the assets and expenditures was impossible. That case pivots on the fact that all of the monies lent to Ponzi belonged to him free and clear to do with as he pleased. He had no duty to invest the funds loaned to him. This Court has before it the *Clayton's Case* scenario. After Ponzi withdrew all the funds, there was nothing to track. The funds were gone. In *the Ponzi Case* the court articulates the basis, rationale, and precedence for *the Clayton's Case* ruling, citing Knatchbull v. Hallett, L.R. 13 Ch. D. 696:

> " ... [W]here a fund was composed partly of a defrauded claimant's money and partly of that of the wrongdoer , it would be presumed that in the fluctuations of the fund it was the wrongdoer's purpose to draw out the money he could legally and honestly use rather than that of the

claimant, and that the claimant might identify what remained as his *res* and assert his right to it by way of equitable lien on the whole fund, or a proper *pro rata* share of it."

In *the Ponzi Case*, it was too late to make the presumption that, had the investors been made aware of the fraud perpetuated upon them, they would have rescinded the contract, and demanded the return of the funds at risk. A careful reading of the Article IV, pgs. 5 through 6 of the "Shasta Investors Agreement," attached hereto and incorporated herein, as Exhibit C, which the Receiver should have in his possession, makes clear that the operators of Tech Traders, Shasta, and the other investment groups described by the Receiver, contracted to invest the funds in their charge to turn a profit. The operators did not own the funds. They were to perform a fiduciary duty, i.e. to do their very best to yield gains in the futures market. The Common Law logic annunciated in *Clayton's Case* is as applicable today as it was two hundred years ago. [See Ruddle v. Moore, et al., 411 F2d 718, at 719 (1969) and Topworth International, Ltd., 205 F.3d 1107, at 116, (1999) citing Commodity Futures Trading Commission vs. Richwell Int'l, Ltd., 163 B.R. 161 (N.D. Cal. 1994) This time tested standard provides that where the funds can be traced, as in the case before this Court, the only fair and just solution to prevent late investors from having to subsidize the losses of earlier risk-taking investors, is to track the disparities in the amount of time each investor's funds were at risk. The amount of risk to which the funds were subjected is directly related to the specific months and times that the investors' monies were in the charge of Tech Traders. Money at risk for a month should not be treated the same as money at

risk for six months, one year or two years or even four years.

5. In the Receiver's Affidavit in Support of Motion for Authority to Make Interim Distribution, he reports the fruits of his investigation into the workings and relationships of the various named defendants. The history begins with Coyt E. Murray (Murray), the operator of Magnum Investments, Ltd. (Magnum) sometime in 1998. "Magnum offered outside investors an opportunity to participate in commodity futures trading. Magnum promised that they would receive a significant amount of interest on investors' funds, plus one-half of the profits realized by Magnum from those funds. Magnum had several commodity futures trading accounts with Refco, LLC, a futures commission merchant or brokerage firm located in Chicago, Illinois. Magnum transferred much of the funds it received from investors to the Refco accounts." [See p. 3, para. 9] Later, in the same document, the Receiver, after having detailed Magnum's various investment account records, states: "Although investors were informed that Magnum's trading activities had been significantly profitable, the Magnum accounts at Refco lost a total of $2.9 million in commodity trading over the period of February 1998 through May 2002." The Receiver tracks Magnum's trading activities, as Murray, during the period from early 2001 through the middle of 2002, gradually, phases the Magnum operation into Tech Traders, while still continuing to take in funds, and investing in the futures market. [See p. 3, para. 9] He reports that "Shasta was a commodity pool operated by Defendants Shimer and Firth. It was organized in mid-2001 and began accepting investor funds at the beginning of 2002. ... Shasta took in approximately $14 million from investors,

deducted a 1 percent charge for legal and accounting fees, and sent the balance to Tech Traders to fund trading in the commodities futures markets. Shasta had approximately 70 investors. Shasta received back approximately $1.6 million from Tech Traders, and it distributed this amount to certain of its investors." [See p. 6, para. 19]. The Receiver is "holding nearly $20 million in frozen receivership funds. Of that amount, approximately 17.7 million is from accounts in the name of Tech Traders and from the Shimer escrow account for Shasta. ... [H]e seeks authority to make an initial distribution that could be as much as approximately $10 million, to investors of Tech Traders and Shasta at this time." [See p. 7, para. 20] In his historical report to the Court, the Receiver provides the chronology of funds flowing in and out of all of the named defendant investor groups' accounts. He has records of how much came into Tech Traders, from the inception of its operation right up to the days after the April 1, 2004 freeze order. [See p. 3, para. 9 through p. 7, para. 20 of Receiver's supporting Affidavit] What's required of the Receiver to arrive at the appropriate distribution, is to gather and run the numbers of inflow and outflow of funds received and expended by Tech Traders, to arrive at a proper rate of loss per unit of time, and apply that rate to each specific investment, as of the date of the investment. By following the logical and equitable principle enunciated in the previously cited *Clayton 's Case*, i.e. when it is possible to track the inflow and outflow of funds in a co-mingled account containing an amount insufficient to satisfy all of the defrauded depositors, justice demands that the funds be returned to the claimants according to the time of the investment deposits, i.e. " ...[T]he first withdrawals were to be charged against

the first deposits and the claimants were entitled to be paid in inverse order in which their monies went into the account." [Cunningham v. Brown, supra, p. 12] The Receiver has a duty to prevent the late comers to this fraud from having to subsidize the claims of the earlier victims. He, with reasonable effort, can and must track over time investor contributions, the fate of those contributions, and execution of trades by Tech Traders, as that information pertains to each defrauded claimant. In the event that sufficient trading records are not in the Receiver's possession, and not available from the commodity clearing houses used by Tech Traders and/or Magnum, then, in the spirit of *Clayton's Case*, a fair and equitable solution would be to apportion loss based upon the time the investor's monies were in the charge of Murray, Magnum, Tech Traders, and/or any of Murray's companies. In the unlikely event that tabulating the figures of the inflow and out flow of funds relative to all of the defendant entities is deemed too onerous, then the Receiver should consider isolating the treatment of the Shasta funds, and applying the *Clayton's Case* solution,. Shasta has kept excellent records. Shasta investors could be a class of their own.

6. WHEREFORE, Objector Don Zinman (Claim No. 88) prays: (i) That as to all investments before April 1, 2004, this Court order the Receiver not to apply the pro rata formula for an interim distribution which he adopted from *the* Ponzi *Case*. (ii) That this Court instruct the Receiver to hire a professional expert to make a historical study of the individual investment contributions of each separate defendant and the individual investor contributions of each in relation to Tech

Trades Traders trading activity, to formulate a more equitable and fair method of distribution. A solution that is specific to each investor does not force the late investors to subsidize the early risk-taking investors. (iii) That this Court order the Receiver to immediately refund to Objector, Don Zinman, the $100,000, which he attempted to invest before being protected by the CFTC freeze order issued on April 1, 2004, and (iv) grant such further relief as it deems equitable under the circumstances.

February 9, 2005

Respectfully submitted,

J.R. Nerone
Attorney for Objector
Don Zinman

[See page 12 for Objector's Verification and pages 13 and 14 for Objector's Declaration in Support of His Objection to the Receiver's Proposed Distribution Plan]

VERIFICATION

I, Donald Zinman, the objector, declare:

I have read the foregoing Objection To The Equity Receiver For Defendants' Proposed Interim Distribution Plan, and I know the contents thereof. From my own knowledge, I know that the statements therein are true, except as to all matters that are stated on information and belief. As to those matters, I believe them to be true. I declare under the penalty of perjury under the laws of the United States of America and the laws of the State of California that the foregoing is true and correct.

Dated: February 9, 2005

Donald Zinman

DECLARATION OF DON ZINMAN IN SUPPORT OF HIS OBJECTION TO THE RECEIVER'S PROPOSED INTERIM DISTRIBUTION PLAN IN THE MATTER OF COMMODITY FUTURES TRADING COMMISSION V. EQUITY FINANCIAL GROUP, LLC, CIVIL ACTION NO. 04CV 1512

I, Don Zinman, declare as follows:

1. I am claimant No. 88 in the above matter and an Objector to the Receiver's Proposed Interim Distribution Plan.

2. I invested a total of $250,000 into Shasta Capital Associates LLC's account by making two separate payments. The first, in the amount of $150,000, was wired to Shasta on February 25, 2004. The second was paid good on March 29, 2004 in Shasta's account, although post-dated for payment for April 17, 2004.

3. I requested from my bank, Washington Mutual, a record of when Check No. 2824, was paid, in the amount of $100, 000, dated April 17, 2004, made out to Shasta Capital Associates, LLC, was paid. I received from them an acknowledgment of my request, a photo copy of the check, and a record indicating that payment was made on March 29, 2004. These items have been attached and incorporated into the Objection to the Receiver's Proposed Interim Distribution Plan, as Exhibit A.

4. On January 31, 2005 I e-mailed Robert Shimer, Legal Counsel for Shasta Associates, LLC requesting confirmation of the fact that the post dated $100,000 (Check No. 2824) was never invested in Tech Traders Inc.'s account. He subsequently sent a letter confirming this fact. In it, he states that the $100,000

was deposited into Shasta's Citibank account, where it was on April 1, 2004, and remained until sequestrated by the Receiver. I have provided my attorney, J.R. Nerone, with a copy of this letter, which is incorporated into my Objection to the Receiver's Proposed Interim Distribution Plan by reference, as Exhibit B.

5. On February 8, 2005 I Fax Mailed to my attorney, J.R. Nerone, a Fifteen page copy of the "Operating Agreement" I signed with Shasta Capital Associates, LLC in February, 2004, which is incorporated by reference into my objection, as Exhibit C.

I declare under penalty of perjury in accordance with the laws of the United States of America and the State of California that the foregoing is true and Correct, and that this Declaration was signed in Los Angeles, CA on February 9, 2004.

Donald Zinman

EXHIBIT A

Washington Mutual

WEB002 .,

Attached is the photocopy(s) you requested on 20041007.

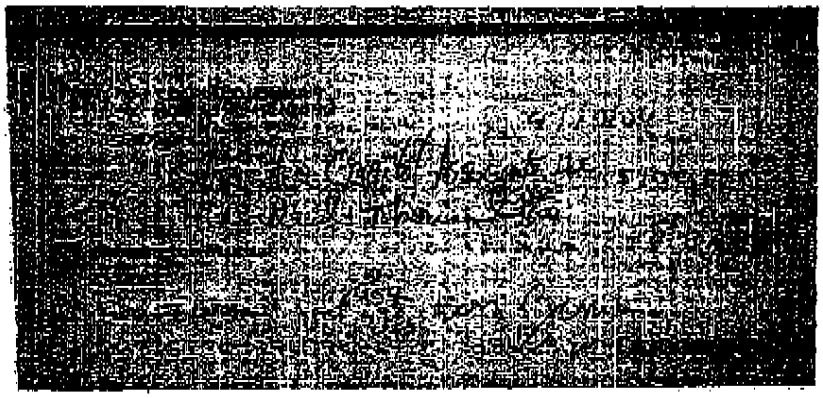
	V4AR002024681104272	Customer 0000000003940942192

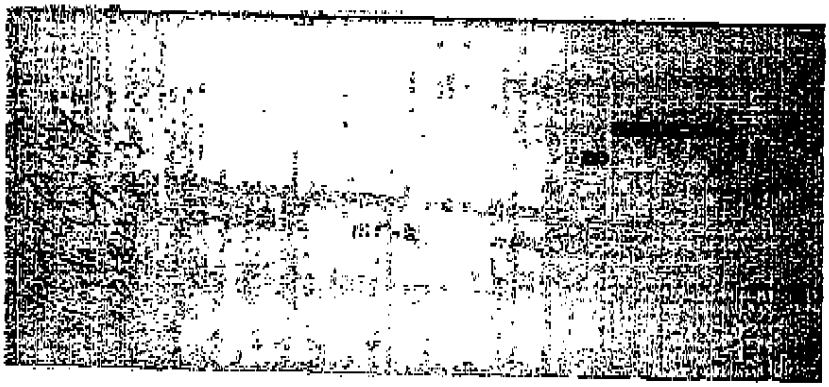
DONALD ZINMAN
HOLLIS A HENNING
31273 BAILARD RD
MALIBU CA 90265-2605

$100,000 check

Images of Photocopy(s)

Amount	Posting Date	Seq Number
$100,000.00	03/29/2004	0000000000025230439





Enclosed is the photocopy you requested on 10/07/04

DONALD ZINMAN
HOLLIS A HENNING
31273 HEIZERD RD
MALIBU CA 90265-2605

Item:NSC V4AR 002-02-4681104272 1

Washington Mutual

STATEMENT OF ACCOUN

THE FEE FOR EACH OVERDRAWN TRANSACTION, WHETHER PAID OR RETURNED, IS $21.00.

1046009000005124

TO REACH CUSTOMER SERVICE, PLEASE CALL TELEPHONE BANKING AT 1-800-788-7000.

189,517

15-X-RC

DONALD ZINMAN
PO BOX 6707
MALIBU CA 90264-6707

STATEMENT PERIOD:
FROM 03-23-04
THRU 04-22-04

AT WASHINGTON MUTUAL, EVERY DAY IS CUSTOMER APPRECIATION DAY. THANKS FOR BANKING WITH US.

PLATINUM ACCOUNT — WASHINGTON MUTUAL BANK, FA — FDIC INSURI

DONALD ZINMAN
HOLLIS A HENNING

ACCOUNT NUMBER: 394-094219-

YOUR OVERDRAFT LIMIT, AS OF THE STATEMENT END DATE, WAS $ 1,000.00. THIS MAY BE CHANGED AT ANY TIME WITHOUT NOTICE. OVERDRAFTS ARE SUBJECT TO A PER TRANSACTION CHARGE. SEE REVERSE FOR MORE INFORMATION.

BEGINNING BALANCE	TOTAL WITHDRAWALS	TOTAL DEPOSITS	ENDING BALANCE
143,653.90	123,563.74	70,256.97	90,347.13

INTEREST EARNED: 69.51 ANNUAL PERCENTAGE YIELD EARNED : 1.56 % YTD INTEREST PAID : 78
YTD INTEREST WITHHELD:

DATE	WITHDRAWALS	DEPOSITS	TRANSACTION DESCRIPTION
03/25	11,000.00		OLB TRANSFER TO 000000000871000017584900
03/25	2,000.00		OLB TRANSFER TO 000000000871000017584900
04/07	36.00		WORKING ASSETS WALD PAYMT 1004770
04/08	82.41		VERIZON PHONE BILL 1161141707
04/09	3,500.00		OLB TRANSFER TO 000000000871000017584900
04/12	5,745.07		OLB TRANSFER TO 000000000871000017584900
04/13		50,000.00	CUSTOMER DEPOSIT
04/16	1,187.26		AMERICAN EXPRESS ELEC REMIT 040415061083446
04/21		20,174.46	CUSTOMER DEPOSIT
04/22		69.51	INTEREST PAYMENT
04/22	13.00		SERVICE CHARGE
04/22		13.00	REFUND SERVICE CHARGE

DETAIL OF CHECKS PAID:

CHECK NUMBER	DATE PAID	AMOUNT	CHECK NUMBER	DATE PAID	AMOUNT	CHECK NUMBER	DATE PAID	AMOUN
2824	03/29	100,000.00						

Exhibit B

February 1, 2005

Don Zinman
PO Box 6707
Malibu Ca 90264

Don,

Per our telephone conversation of Thursday, January 27, 2005 and pursuant to your specific request please be advised that a personal log that I meticulously kept to record all funds in and out of my attorney escrow account at Citibank, NY for my client Shasta Capital Associates, LLC shows an entry which states that the check that Vince received from you in the amount of $100,000.00 for your investment with my client Shasta in late March, 2004 was sent directly to Citibank by Vince on March 26, 2004 for deposit to Shasta's account. Since you apparently mailed your check directly to Vince I seem to remember telling him that to save the time of first sending the check to me for forwarding to Citibank that he should simply mail it directly to the bank which he did. I am sure that Vince will provide you with a written statement to that effect if that is necessary.

In any event the bank records at Citibank should clearly show receipt of three separate deposits by check in the amount of $100,000.00 on or about the last days of March, 2004: your check and one other check from another new member of Shasta also sent directly to Citibank by Vince on March 29, 2004. The third check was mailed by me on behalf of another Shasta member directly to Citibank on March 29, 2004. All of the funds represented by those three checks were still in Shasta's account when the Receiver took possession of Shasta's bank account.

My personal log records clearly indicate that the last wire forwarded from Shasta's account at Citibank was executed on Friday April 2, 2004. I can account for all funds that comprised that wire. Your funds were not forwarded to Tech Traders, Inc on April 2, 2004 nor were any of the funds represented by either of the other two checks deposited at approximately the same time as your check. I was not sure when funds deposited by check would actually clear so I was waiting for final confirmation from Citibank before forwarding your funds to the trading entity Tech Traders, Inc.

Therefore, I can state categorically without any hesitation that your funds represented by your check in the amount of $100,000.00 received by Vince in late March, 2004 were deposited into Shasta's account probably on Monday, March 29, 2004 or at the latest Tuesday, March 30, 2004. They were swept directly from Shasta's escrow account by the Receiver, Stephen Bobo into whatever account he established pursuant to his duties as Receiver. The Receiver clearly has the entire amount of your funds represented by your check deposit of $100,000.00 because your funds were never forwarded by me to the trading entity Tech Traders, Inc. I trust that this information will be of assistance to you.

Sincerely,

Robert W. Shirner

Don Zinman

From: Robert Shimer [shimer@enter.net]
Sent: Monday, January 31, 2005 2:30 AM
To: Don Zinman
Subject: REply

Don Zinman
PO Box 6707
Malibu Ca 90264

Don,

Per our telephone conversation of Thursday, January 27, 2005 and pursuant to your specific request please be advised that a personal log that I meticulously kept to record all funds in and out of my attorney escrow account at Citibank, NY for my client Shsta Capital Associates, LLC shows an entry which states that the check that Vince received from you in the amount of $100,000.00 for your investment with my client Shasta in late March, 2004 was sent directly to Citibank by Vince on March 26, 2004 for deposit to Shasta's account. Since you apparently mailed you check directly to Vince I seem to remember telling him that to save the time of first sending the check to me for forwarding to Citibank that he should simply mail it directly to the bank which he did. I am sure that Vince will provide you with a written statement to that effect if that is necessary.

In any event the bank records at Citibank should clearly show receipt of three separate deposits by check in the amount of $100,000.00 on or about the last days of March, 2004: your check and one other check from another new member of Shasta also sent directly to Citibank by Vince on March 29, 2004. The third check was mailed by me on behalf of another Shasta member directly to Citibank on March 29, 2004. All of the funds represented by those three checks were still in Shasta's account when the Receiver took possesion of Shasta's bank account.

My personal log records clearly indicate that the last wire forwarded from Shasta's account at Citibank was executed on Friday April 2, 2004. I can account for all funds that comprised that wire. Your funds were not forwarded to Tech Traders, Inc on April 2, 2004 nor were any of the funds represented by either of the other two checks deposited at approximately the same time as your check. I was not sure when funds deposited by check would actually clear so I was waiting for final confirmation from Citibank before forwarding your funds to the trading entity Tech Traders, Inc.

funds Therfore I can state categorically without any hesitation that your funds represented by your check in the amount of $100,000.00 received by Vince in late March, 2004 were deposited into Shsta's account probably on Monday, ~~April~~ 29, 2004 or at the latest Tuesday, April 30, 2004. They were swept directly from Shasta's escrow account by the Receiver, Stephen Bobo to whatever account he established pursuant to his duties as Receiver. The Receiver clearly has the entire amount of your funds represented by your check deposit of $100,000.00 because your funds were never forwarded by me to the trading entity Tech Traders, Inc.

I trust that this informtion will be of assistance to you.

Sincerely,

Robert W. Shimer, Esq
legal counsel, Shasta Capital Associates, LLC

—— Original Message ——
From: Don Zinman
To: shimer@enter.net
Sent: Saturday, January 29, 2005 6:04 PM

1/31/2005

Subject: FW: Shasta effective investment date

-----Original Message-----
From: Don Zinman [mailto:donzinman@cs.com]
Sent: Saturday, January 29, 2005 2:36 PM
To: 'shimer@enternet.com'
Subject: Shasta effective investment date

Hi Bob,

Thanks for taking the time with me on Thursday. This is my follow-up email. When we spoke you told me that the check I sent to you at month's end march '04 was deposited with Citibank and never made it to the trader because the Shasta account was frozen and seized by the Receiver. If you can explain that in an email and also send a signed copy I will be very grateful. Thank you Don Zinman (PO Box 6707 Malibu Ca 90264)

If you can't write the email this weekend please let me know by Reply so that I'll know you've received this and will get to it after the weekend. Thanks

EXHIBIT C

Operating Agreement
Shasta Capital Associates, LLC

This Limited Liability Operating Agreement (hereinafter the "Agreement") is made and entered into this 17 day of Feb, 2004 by and between:

Equity Financial Group, LLC, with address of 3 Aster Court, Medford, New Jersey 08055 successor to Vincent Firth named as Manager of the Company in the Certificate of Formation of Shasta Capital Associates, LLC duly filed with the division of corporations for the State of Delaware on the 22nd of May, 2001; and,

Each Person later admitted to the Company as a Member and known collectively as Members. Accordingly, in consideration of the covenants and conditions contained herein, and for other good and valuable consideration receipt whereof is hereby acknowledged, the parties agree as follows

ARTICLE I
DEFINITIONS

The following defined terms used in the Agreement have the meanings specified in this Article or elsewhere in this Agreement, and when not so defined shall have the meanings as may be set forth in the Laws of Delaware authorizing the formation of limited liability companies.

1.1 "Agreement" means this Operating Agreement, as originally executed and as amended from time to time.

1.2 "Arbitration Rules" means the Rules of Arbitration of the American Arbitration Association or such similar organization.

1.3 "Assignee" means a person who has acquired a Member's Economic Interest in the Company, by way of a Transfer in accordance with the terms of this Agreement and the specific requirements of Article X, section 10.2 but who has not yet become a Substituted Member by reason of the fact that a counterpart of this Operating Agreement has not yet been executed by that assignee.

1.4 "Assigning Member" means a Member who by means of a Transfer has transferred an Economic Interest in the Company to an Assignee.

1.5 "Capital Account" means, as to any Member, a separate account maintained and adjusted in accordance with Article III, Section 3.2 and more specifically defined in Section 1.26 below.

1.6 "Capital Contribution" means, with respect to any Member, the amount of money and/or the Fair Market Value of any property, (other than money) contributed to the Company in consideration for a Percentage Interest held by such Member evidenced by shares in the Company. A Capital Contribution shall not be deemed a loan.

1.7 "Capital Event" means a sale or disposition of any of the Company's capital assets, the receipt of insurance and other proceeds derived from the involuntary conversion of Company property, the receipt of proceeds from a refinancing of Company property, or a similar event with respect to Company property or assets.

1.8 "Certificate of Formation" means that certain Certificate of Formation filed with the Delaware Secretary of State on May 22, 2001 forming the Company.

1.9 "Company" means Shasta Capital Associates, LLC.

Member Initials

1.10 "Economic Interest" means a Person's right to share in the income, gains, losses, deductions, credit or similar items of, and to receive distributions from, the Company, but does not include any other rights of a Member, including the right to vote.

1.11 "Encumber" means the act of creating or purporting to create an Encumbrance, whether or not perfected under applicable law.

1.12 "Encumbrance" means with respect to any Membership Interest, or any element thereof, a mortgage, pledge, security interest, lien, proxy coupled with an interest (other than as contemplated in this Agreement), option, or preferential right to purchase.

1.13 "Gross Asset Value" means as follows:

(a) The Gross Asset Value of any item of property contributed by a Member to the Company shall be the fair market value of such property, as mutually agreed by the contributing Member and the Company; and,

(b) The Gross Asset Value of any item of Company property distributed to any Member shall be the fair market value of such item of property on the date of distribution, as mutually agreed by the distributee Member and the Company.

1.14 "Initial Manager shall mean Vincent Firth, the person named in the Company's Certificate of Formation.

1.15 "Involuntary Transfer" means, with respect to any Membership Interest or any element thereof, any Transfer or Encumbrance, whether by operation of law, pursuant to court order, foreclosure of a security interest, execution of a judgment or other legal process, or otherwise, including a purported transfer to or from a trustee in bankruptcy, receiver, or assignee for the benefit of creditors.

1.16 "Majority of Members" means a Member or Members whose Percentage Interests represent more than 50 percent of the Percentage Interests of all the Members.

1.17 "Manager" shall mean Equity Financial Group, LLC a limited liability company formed under the laws of the state of Delaware and the successor to the Company's initial Manager.

1.18 "Member" means an Initial Member of the Company or a Person who otherwise acquires a Membership Interest of the Company, as permitted under this Agreement, and who remains a Member of the Company.

1.19 "Membership Interest" means the Economic Interest of a Member and all shares of the Company acquired by that Member conferring the right to Vote.

1.20 "Notice" means a written notice required or permitted under this Agreement. A notice must be delivered using one of the following methods:

(a) hand delivery (notice is deemed given on delivery);

(b) fax with telephone confirmation by the recipient (notice is deemed given on telephone confirmation);

(c) United Parcel, Federal Express, DHL Couriers or other delivery service of equal or superior reputation and which provides for proof of delivery from a disinterested party (notice is deemed given at the time of the first attempted delivery by the delivery service).

Addresses for notice may be changed by written notice in the manner herein specified. Unless and until notice is given, the last address given or address provided in this Agreement (if no notice of change has been given) will control. All communications will be addressed to the address of the Member that is specified in the Company's records.

1.21 "Percentage Interest" means a fraction, expressed as a percentage, the numerator of which is the total of a Member's Capital Account and the denominator of which is the total of all Capital Accounts of all Members.

Member Initials _____

1.22 "Person" means an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company, or other entity, whether domestic or foreign.

1.23 "Company Profits" and "Company Losses" means, for each fiscal year or other period specified in this Agreement, an amount equal to the Company's income as a result of profits generated by the Company's investment in the Trading Company and loss as a result of the losses sustained by that investment.

1.24 "Substituted Member" means a transferee of a Membership Interest that has met all of the requirements of section 10.2 and, in addition, has executed a counterpart of this Operating Agreement. A Substituted Member is, as of the date of execution of the counterpart, a Member of the Company.

1.25 "Successor in Interest" means an Assignee, a successor of a Person by merger or otherwise by operation of law, or a transferee of all or substantially all of the business or assets of a Person.

1.26 "Trading Capital Account" means the Capital Account established for each Member to record that portion of a Member's investment in the Company invested, in turn by the Company with the Trading Company. The Trading Capital Account of each member is increased by:

(a) the original amount of that Member's Trading Capital Contribution;
(b) later similar additional voluntary Trading Capital Contributions by that Member;
(c) profits from the Company's investment with the Trading Company allocated to that Member in the same proportion that the beginning balance each month of that Member's Trading Capital Account bears to the sum total of all Members' Trading Capital Account Balances.

And reduced by:

(d) Trading Company losses allocated to that Member in the same proportion as profits allocated in (c) above;
(e) Trading Company Capital Account distributions requested by that Member;
(f) Company expenses or such other items properly allocated to the Trading Company side of the Company's investments as would ordinarily, in conformance with standard accounting practices reduce a member's Capital Account.

1.27 "Trading Capital Contribution" means the principal amount of a Member's original investment in the Company and any later additional voluntary investment in the Company by a Member for which that Member is entitled to receive shares of the Company and allocated by the Company to that Member's Trading Capital Account.

1.28 "Trading Company" means that certain company that has executed a certain Investment Agreement with the Company for the placement of Company funds in The Synergy Trading System,, that certain trading system that takes a portfolio approach to the futures trading of certain selected financial markets.

1.29 "Trading Losses" means losses realized by the Company as a result of placement of Company funds by the Manager with the Trading Company.

1.30 "Trading Profits" means profits realized by the Company as a result of placement of Company funds by the Manager with the Trading Company.

1.31 "Transfer" means, with respect to a Membership Interest, or any element of a Membership Interest, any sale, assignment, gift, Involuntary Transfer, or other disposition of a Membership Interest or any element of such a Membership Interest, directly or indirectly, other than an Encumbrance that is expressly permitted under this Agreement.

1.32 "Triggering Event" is defined in Article X, Section 10.5

Member Initials

1.33 "Vote" means a written consent or approval, a ballot cast at a Meeting, or a voice vote.

1.34 "Voting Interest" means, with respect to a Member, the right to Vote and any right to information concerning the business and affairs of the Company provided under the Act, except as limited by the provisions of this Agreement. A Member's Voting Interest shall be directly proportional to that Member's Percentage Interest.

ARTICLE II
COMPANY FORMATION AND REGISTERED AGENT

2.1 FORMATION. The Members hereby form a Limited Liability Company under the Laws of the State of Delaware.

2.2 NAME. The Name of the Company shall be Shasta Capital Associates, LLC.

2.3 REGISTERED OFFICE AND AGENT. The agent for service of process on the Company shall be the Company Corporation, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

2.4 TERM. The Company shall continue for a period of Thirty years and shall terminate on May 22, 2031 unless sooner dissolved by:

(a) The written agreement of all the Members to dissolve the Company; or
(b) The sale or other disposition of substantially all of the Company's assets;
(c) Any other event causing a dissolution of a Limited Liability Company under the Laws of the State of Delaware

2.5 BUSINESS PURPOSE. The general purpose of the Company is to engage in any lawful act or activity for which a Limited Liability Company may be formed under the Act. In addition, the Company's primary initial business purpose shall be to execute an Investment Agreement with the Trading Company for the purpose of accessing, for the benefit of the Company's Members, a certain trading system known as the Synergy Trading System that takes a "portfolio" approach to the trading of certain selected financial markets. Notwithstanding that primary initial business purpose the Company shall have every power that it considers necessary or convenient to engage in any lawful act or activity in furtherance of its general purpose.

2.6 PRINCIPAL PLACE OF BUSINESS. The location of the initial principal place of business of the Company shall be the address of its Manager. The mailing address for the Company shall be 3 Aster Court, Medford, New Jersey 08055.

2.7 MEMBERS. The name and place of residence of each Member are on file at the offices of the Company.

2.8 ADOPTION OF CERTIFICATE OF FORMATION. Each Member of the Company, by executing a copy of this operating agreement hereby approves the Certificate of Formation of the Company filed with the Office of the Secretary of State of Delaware on the 22nd of May, 2001.

2.9 GOVERNING DOCUMENT. If this Agreement shall ever be interpreted to be in conflict with the terms or requirements of the Certificate of Formation of the Company registered with the State of Delaware, then to the extent required by law the Company's Certificate of Formation shall prevail with respect to any such conflict.

Member Initials _____

ARTICLE III
CAPITALIZATION

3.1 CAPITAL CONTRIBUTIONS. Each Member has contributed, as a Capital Contribution to the Company the money specified in that certain Capital Contribution Schedule filed in the offices of the company (as amended from time to time to reflect new Members). No Member shall be required to make any additional contribution to the Company's Capital.

3.2 CAPITAL ACCOUNT. Consistent with the Company's stated initial purpose the Manager shall maintain a separate Trading Capital Account and, if deemed necessary by the Company's bookkeeper and CPA, a distribution account for each Member. Initial Capital contributions and additional capital received from each Member shall be allocated to each Member's Capital Account as follows: 99% of each Member's capital contribution (whether initial or additional) shall be allocated to that Member's Trading Capital Account for placement with the Trading Company. The Capital Account of each Member shall, for purposes of proper accounting, be determined and maintained in the manner set forth in US Treasury Regulation 1.704-1(b)(2)(iv) and in accordance with standard and accepted accounting principles and shall consist of that Member's initial Trading Capital Contribution increased by:

(a) any additional voluntary capital contribution made by that Member;
(b) credit balances transferred from that Member's distribution account by reason of that Member's share of Trading Profits or other profit or other Company income;

and decreased by:
(c) distributions to that Member in reduction of Company capital;
(d) the Member's share of Company Trading Losses or other Company loss charged to that Member's Capital Account.

3.3 INTEREST. No interest shall be paid on funds contributed to the capital of the Company or on the balance of a Member's Capital Account.

3.4 MEMBER LIABILITY. Members shall not be bound by, or be personally liable for the expenses, liabilities, or obligations of the Company.

3.5 NO PRIORITY OF DISTRIBUTIONS. No Member shall have priority over any other Member with respect to the return of a Capital Contribution, or distributions or allocations of income, gain, loss, deduction, credit, or items thereof.

ARTICLE IV
PROFITS, LOSSES AND DISTRIBUTIONS

4.1 ALLOCATION OF TRADING COMPANY PROFITS AND LOSSES. Ninety Five percent (95%) of all Trading Profits and Trading Losses and 95% of all items of similar income, gain, loss, deduction, or credit shall be allocated, for Company book purposes and for tax purposes, at the end of each calendar month to the Members. The remaining 5% of Trading Profits and Trading Losses and similar items of income and gain, loss, deduction or credit not allocated to the Members as aforesaid shall be allocated to the Manager as compensation for services rendered to the Company. This allocation shall be computed by first allocating 100% of all items of income, gain, profit, loss, deduction or credit as aforesaid among the Company's Members at the end of each month in accordance with Section 4.2 below and then subtracting 5% of the amount of each aforesaid item of income, gain, profit, loss, deduction or credit from each Member's Trading Capital Account and allocating the same to the Manager.

Member Initials _____

4.2 ALLOCATION OF TRADING COMPANY PROFITS AND LOSSES BETWEEN MEMBERS. Profits and losses from the Company's investment with the Trading Company shall be allocated between the Members in accordance with the amount of their respective Trading Capital Account balances at the beginning of the month. Each Member shall share in Trading Profits and Trading Losses and all other similar items of income, gain, profit, loss, deduction, or credit allocated to the Members by Paragraph 4.1 above in accordance with the ratio that Member's Trading Capital Account balance bears to the total of all Trading Capital Account balances of all Members. For example, if a Member's Trading Capital Account balance at the beginning of the month represents 8% of the Trading Capital Account balances of all Members at the beginning of that same month, that Member shall receive 8% of all Trading Profits and Trading Losses and all other similar items of income, gain, loss, deduction, or credit allocated to the Members by Paragraph 4.1.

4.3 DISTRIBUTIONS. The Manager shall determine and distribute Company Profits allocated to each Member's Trading Capital Account at such intervals and in such amounts as may be requested and are convenient to each Member. Distributions from a Member's Trading Capital Account during any calendar year shall not be made more frequently than on a monthly basis. The Manager prefers that no Member request a distribution of profits from that Member's Trading Capital Account for at least the first 6 months following that Member's initial Trading Capital Contribution *but that preference is not binding on the Members.*

Requests for distribution, if on a monthly basis from a Member's Trading Capital Account, should be received by the Company no later than 15 days prior to the beginning of the month of a requested distribution. Actual distribution to that Member will occur as soon as possible after the 15th day of the month following the month for which distribution is requested.

Requests for a quarterly distribution from a member's Capital Account should be lodged with the Manager no later than 15 days before the beginning of the last month of the quarter. Actual distribution will occur approximately 15 days following the end of the last month of the quarter.

4.4 DISTRIBUTIONS IN LIQUIDATION. Distributions in liquidation of the Company or in liquidation of a Member's interest shall be made as follows: All items of income, gain, profit, loss, deduction or credit shall first be allocated to that Member's (or to all Members') Capital Account as required by Sections 4.1 and 4.2. Other necessary and appropriate credits and deductions to each respective Capital Account shall be made before final distribution is made. The final distribution to the liquidating Member or in liquidation to all Members shall be made to the extent of and in proportion to each Member's positive Capital Account balance.

ARTICLE V
PREFERENTIAL RETURN ON INVESTMENT

5.1 TRADING COMPANY PREFERENTIAL RETURN ON INVESTMENT. Under the terms of its Investment Agreement with the Trading Company, the Company shall be entitled to receive a preferential return on investment from available Trading Profits before any Trading Profits are allocated to the Trading Company for expenses and before any further allocation of remaining Trading Profits occurs between the Company and the Trading Company. The amount of this preferential return on investment shall be equal to 2% per month until December 31, 2003. Thereafter the preferential return on investment shall be 1% per month.

The actual dollar amount of the preferential return on investment can increase from month to month as a percentage of a Member's original Trading Capital Contribution because this preferential return on investment is computed each month on the Company's investment account balance with the Trading Company as of the first day of each calendar month. Trading Profits allocated to the Company and not withdrawn as a distribution shall increase the amount of the Company's investment balance with the Trading Company each month and, therefore, the amount upon which the preferential return on investment is computed for the following month.

Member Initials _____

Members of the Company shall participate in this preferential return on investment in direct proportion to the ratio their individual Trading Capital Account balance bears to the total of all Trading Capital Account Balances of all Members. Member's who do not request a distribution from their Trading Capital Account will see their relative percentage share of the Company's investment account balance increase proportionally over those Members who regularly request a distribution from their Trading Capital Account. What begins as a preferential 2% return per month from available profits on a Member's original Trading Capital Contribution shall effectively become a much greater preferential return on original investment because of the effect of month to month compounding.

ARTICLE VI
MANAGEMENT

6.1 MANAGEMENT OF THE COMPANY. The business of the Company shall be managed for the duration of the Company by Equity Financial Group, LLC, ("Equity") a New Jersey limited liability company. The address of the Manager is 3 Aster Court, Medford, New Jersey 08055 or such other address as the Manager may designate from time to time. The Manager of Equity is Vincent Firth. To the extent that the manager finds it necessary and desirable, the Manager may appoint Mr. Firth to also hold the position of President of the Company and all Members executing this Operating Agreement hereby consent to that appointment of Mr. Firth. Mr. Firth shall not be entitled to compensation from the Company for services rendered to the Company solely in his capacity as President of the Company. The Secretary of the Manager (if any) may also hold the office of Secretary of the Company. The Secretary of the Company (if any) shall not be entitled to compensation from the Company for services rendered in that capacity to the Company.

6.2 MEMBERS. The liability of the Members shall be limited as provided under Delaware's limited liability legislation. Members shall take no part whatever in the control, management, direction, or operation of the Company's affairs and shall have no power to bind the Company. The Manager may, from time to time seek advice from the Members but the Manager need not accept such advice, and at all times the Manager shall have the exclusive right to control and manage the Company. No Member shall be the agent of any other Member of the Company solely by reason of being a Member.

6.3 POWERS OF MANAGER. The Manager is authorized on the Company's behalf to make all decisions with respect to

(a) the investment of Company funds with the Trading Company pursuant to a specific Investment Agreement;
(b) the compromise or release of any of the Company's claims or debts;
(c) the employment of persons, firms or corporations for the operation and management of the Company's business; and,
(d) the purchase or lease of personal property necessary and incidental to operation of the Company's business and the eventual sale or other disposition of the same.
(e) To perform any and all other functions or acts in furtherance of and in protection of the Company's investments

In the exercise of the management power, the Manager is authorized to execute and deliver:

(a) all contracts or agreements necessary to the furtherance of investment of the Company's funds with the Trading Company;
(b) all checks, drafts and other orders for the payment of the Company's funds and in furtherance of the authority hereby conferred, the Manager is authorized to choose such bank or banks as may be suitable and appropriate for the deposit of Company funds and the Manager and its officers are hereby authorized and empowered to designate such signers on those accounts on behalf of the Company as the Manager may deem appropriate for effecting proper bank security procedures with respect to Company funds to protect the Company against misappropriation of funds;
(c) all promissory notes, loans, security agreements and other similar documents;
(d) all other instruments of any other nature.

Member Initials _____

6.5 COMPANY INFORMATION. Any Member may request to see and inspect the books and records of the Company provided that the inspection is for the sole information and use of that Member and only for the purpose of verifying information previously received as a result of monthly statements of profit and loss provided to all Members. Any such inspection of the Company's books shall take place at the Company's principal place of business or such other address as may be designated by the Company or its Manager for that purpose and shall be at the expense of the requesting Member.

6.6 EXCULPATION. Any act or omission of the Manager, the effect of which may cause or result in loss or damage to the Company or the Members if done in good faith to promote the best interests of the Company, shall not subject the Manager or any officer, director, employee or agent of the Manager to any liability to the Members.

ARTICLE VII
ACCOUNTING AND RECORD KEEPING

7.1 RECORDS. The Manager shall cause the Company to keep at its principal place of business or at the offices of its accountant or bookkeeper the following:

(a) A current list in alphabetical order of the full name and the last known business or residence, together with the Capital Contribution and the current Percentage Interest of each Member;
(b) A copy of the Articles of Organization, as amended;
(c) Executed counterparts of this Agreement, as amended;
(d) A copy of the letter received each month from the Company's Certified Public Accountant stating that firm has received written verification from a local independent certified public accountant with respect to the Trading Company's percentage of profit or loss for the month conducted in accordance with agreed upon procedures which included but are not limited to: a) a review of original unaltered brokerage firm statement(s) for the stated month and the random tracing and comparison of transactions on the brokerage statement to trades registered internally by the trading system.
(e) A copy of the financial statement of the Company upon completion of a financial review of the Company's books by its Certified Public Accounting firm at the end of 2002 and a similar financial statement for each succeeding year thereafter.

7.2 MONTHLY STATEMENTS. The Manager shall prepare each month for each Member a statement reporting on the Company's investment for the month with the Trading Company. This statement shall be issued monthly. The Company's statement to its Members shall contain:

a) the opening balance of that Member's Trading Capital Account balance for the month, carried forward from the previous month;
b) the dollar amount of any increase credited to that Member's Trading Capital Account by reason of Trading Profit allocated to that Member for the reporting period as preferential return on investment and as well as the amount of any further profit allocation for the reporting period and each amount thereof expressed as a percentage return on investment for that period;
c) the dollar amount of any decrease to that Member's Trading Capital Account by reason of Trading Loss for that reporting period and that amount also expressed as a draw down percentage;
d) the amount of any dollar distribution made or to be made to that Member;
e) the dollar amount equal to 5% of that Member's share of profit for the reporting period allocated to Equity as Manager;
f) the net dollar amount of the Member's Trading Capital Account carried forward to the beginning of the next reporting period;
g) a statement of the total Trading Profit earned by that member for the reporting period expressed as a percentage return on investment for the reporting period; and,
h) a statement that the percentage return on investment (or loss) for the period was verified and confirmed to the Manager on behalf of the Company by an independent Certified Public Accountant.

Member Initials _____

7.3 ACCOUNTING AND BOOKKEEPING. The Manager shall cause to be kept financial books and records on the accrual method of accounting which shall be the method of accounting followed by the Company. A balance sheet and income statement of the Company shall be prepared promptly following the close of each fiscal year in a manner appropriate to and adequate for the Company's business and necessary for carrying out the provisions of this Agreement. The fiscal year of the Company shall be January 1 though December 31.

7.4 TAX INFORMATION RETURNS. The Manager shall cause to be prepared and mailed to each Member at the Member's address listed on the records of the Company within 90 days from the end of each calendar year all information necessary to enable that Member to complete appropriate Federal and State tax returns.

ARTICLE VIII
COMPENSATION

8.1 MANAGEMENT FEE. The Manager shall be entitled to receive each month as compensation for management of the Company a fee equal to 5% of the Trading Company Profits earned each month by the Company.

8.2 REIMBURSEMENT. The Company shall reimburse the Manager for all reasonable and customary costs directly paid or incurred in connection with management of the Company provided that the total management fee stated in section 8.1 above does not exceed $5,000.00 per month. If the management fee stated in section 8.1 exceeds $5,000.00 per month, the Manager shall bear all costs of management and administration of the Company provided however that the cost of the Certified Public Accounting Firm retained by the Manager on behalf of the Company to conduct a year end review and/or audit of the Company and issue year end K-1 statements to each Member shall be borne by the Company.

ARTICLE IX
MEMBERS AND VOTING

9.1 GENERAL. There shall be only one class of ownership and no Member shall have any rights or preferences in addition to or different from those possessed by any other Member. Each Member shall be entitled to Vote in proportion to the Member's Percentage Interest as of the record date stated in Section 9.2. Any action that may or that must be taken by the Members shall require a three quarters majority of the Percentage Interest of all Members eligible to Vote, except that the following actions shall require a unanimous Percentage Interest Vote of the Members:

(a) the transfer of a Membership Interest and the admission of the Assignee as a Member of the Company; or

(b) any amendment of the Articles of Organization or of this Operating Agreement; or

(c) any action taken by the Manager for the purpose of engaging the Company in any business or enterprise beyond the initial primary stated purpose of the Company. (See Section 9.4 below).

9.2 RECORD DATE. The record date for determining a Member's Percentage Interest shall be close of business on the last day of the calendar month which immediately precedes the month in which the Vote is to be taken or the Meeting is to be held. Any Member entitled to receive a monthly statement (see Article VII) for the month immediately preceding the month of the meeting, the Vote or the month in which any other action is to be taken is eligible to Vote. The Manager shall provide notice to all Members entitled to Vote of such an intended Meeting or Vote or other action by the Members not less than 30 days prior to the date set for the Vote, Meeting or other action.

Member Initials _____

7.3 ACCOUNTING AND BOOKKEEPING. The Manager shall cause to be kept financial books and records on the accrual method of accounting which shall be the method of accounting followed by the Company. A balance sheet and income statement of the Company shall be prepared promptly following the close of each fiscal year in a manner appropriate to and adequate for the Company's business and necessary for carrying out the provisions of this Agreement. The fiscal year of the Company shall be January 1 though December 31.

7.4 TAX INFORMATION RETURNS. The Manager shall cause to be prepared and mailed to each Member at the Member's address listed on the records of the Company within 90 days from the end of each calendar year all information necessary to enable that Member to complete appropriate Federal and State tax returns.

ARTICLE VIII
COMPENSATION

8.1 MANAGEMENT FEE. The Manager shall be entitled to receive each month as compensation for management of the Company a fee equal to 5% of the Trading Company Profits earned each month by the Company.

8.2 REIMBURSEMENT. The Company shall reimburse the Manager for all reasonable and customary costs directly paid or incurred in connection with management of the Company provided that the total management fee stated in section 8.1 above does not exceed $5,000.00 per month. If the management fee stated in section 8.1 exceeds $5,000.00 per month, the Manager shall bear all costs of management and administration of the Company provided however that the cost of the Certified Public Accounting Firm retained by the Manager on behalf of the Company to conduct a year end review and/or audit of the Company and issue year end K-1 statements to each Member shall be borne by the Company.

ARTICLE IX
MEMBERS AND VOTING

9.1 GENERAL. There shall be only one class of ownership and no Member shall have any rights or preferences in addition to or different from those possessed by any other Member. Each Member shall be entitled to Vote in proportion to the Member's Percentage Interest as of the record date stated in Section 9.2. Any action that may or that must be taken by the Members shall require a three quarters majority of the Percentage Interest of all Members eligible to Vote, except that the following actions shall require a unanimous Percentage Interest Vote of the Members:

(a) the transfer of a Membership Interest and the admission of the Assignee as a Member of the Company; or
(b) any amendment of the Articles of Organization or of this Operating Agreement: or
(c) any action taken by the Manager for the purpose of engaging the Company in any business or enterprise beyond the initial primary stated purpose of the Company. (See Section 9.4 below).

9.2 RECORD DATE. The record date for determining a Member's Percentage Interest shall be close of business on the last day of the calendar month which immediately precedes the month in which the Vote is to be taken or the Meeting is to be held. Any Member entitled to receive a monthly statement (see Article VII) for the month immediately preceding the month of the meeting, the Vote or the month in which any other action is to be taken is eligible to Vote. The Manager shall provide notice to all Members entitled to Vote of such an intended Meeting or Vote or other action by the Members not less than 30 days prior to the date set for the Vote, Meeting or other action.

Member Initials _____

9.3 QUORUM. The Members are not required to hold meetings, and matters in which the Manager has requested the advice or input of the Members on any other matter may be reached through one or more informal consultations followed by agreement among a majority of the Members provided that all Members are consulted (although all Members need not be present during a particular consultation with the Manager). In the event that Members wish or decide to hold a formal meeting (a "Meeting") for any reason, the following procedures shall apply:

(a) Any two Members may call a Meeting of the Members by giving Notice of the time and place of the Meeting at least 48 hours prior to the time of the holding of the Meeting. The Notice need not specify the purpose of the Meeting, or the location if the Meeting is to be held at the principal place of business of the Company.
(b) The presence of Members holding a majority of Percentage Interest shall constitute a quorum for the transaction of business at any Meeting of the Members.
(c) The transactions of the Members at any Meeting, however called or noticed, or wherever held, shall be as valid as though transacted at a Meeting duly held after call and notice if a quorum is present and if, either before or after the Meeting, each Member not present signs a written waiver of Notice, a consent to the holding of the Meeting, or an approval of the minutes of the Meeting.
(d) Any action required or permitted to be taken by the Members under this Agreement may be taken without a Meeting if Members owning the requisite Percentage Interest necessary either individually or collectively consent in writing to the action taken.
(e) Members may participate in the Meeting through the use of a conference telephone or similar communications equipment, provided that all Members participating in the Meeting can hear one another.
(f) At all Meetings of Members, a Member may Vote in person or by proxy. Such proxy shall be filed with any Member before or at the time of the Meeting, and may be filed by facsimile transmission to a Member at the principal executive office of the Company or such other address as may be given to the Members for such purposes.
(g) The Members shall keep or cause to be kept with the books and records of the Company full and accurate minutes of all Meetings, Notices, and waivers of Notices of Meetings, and all written consents in lieu of Meetings.
(h) Members shall not be compensated for their time or the cost of travel to attend a Meeting.

9.4 CERTAIN MANAGER ACTIONS REQUIRING UNANIMOUS MEMBER VOTE AND APPROVAL. As a general rule, the Manager shall have exclusive and complete authority to manage the affairs of the Company as set forth in Article VI, Section 6.3. However, it is understood and agreed that the primary initial activity and purpose of the Company shall be to seek Trading Profits for the benefit of its Members. It is the purpose and intent of Article VI, Section 6.3 to confer upon the Manager complete authority to act (without prior approval of the Members) on behalf of the Company and to bind the Company to any agreement necessary to the furtherance of that initial purpose, including the execution of contracts and the opening of such bank accounts on behalf of the Company as the Manager deems appropriate.

As Trading Profits accumulate, however, it is also possible that some Members of the Company may, from time to time, seek to expand the initial business activity and purpose of the Company to take advantage of an extraordinary business opportunity presented to the Company. Such a possibility is unlikely and any such an expansion of the Company's primary initial stated purpose should take place only upon the unanimous approval and consent of *every member*. Therefore it is the clear and stated purpose and intent of this Agreement that *any authority* granted to the Company's Manager by Article VI, Section 6.3 not strictly and immediately necessary to conduct the Company's primary stated initial purpose be tempered and limited by this Section 9.4. To effect the stated purpose and intent of this Section 9.4 it is therefore agreed that any authority conferred upon the Manager by Article VI Section 6.3 to:

(a) purchase any investment assets with Trading Profits;
(b) borrow money and/or to grant a security interest in any assets purchased with Trading Profits to secure those borrowings;
(c) compromise or release of any of the Company's claims or debts; or

Member Initials _____

(d) sell, develop, lease or otherwise dispose of any Company assets

shall be contingent upon the prior Vote and approval of every Member of the Company.

Nothing in this section 9.4 shall be construed or interpreted to require Member consent prior to any action by the Manager to purchase or dispose of miscellaneous office supplies or office equipment or to lease office space or to make any purchase which is ordinary and reasonable to the regular and necessary management of the Company or to settle a claim against the Company or settle a Company debt arising in the ordinary course of conducting the primary initial stated purpose of the Company.

ARTICLE X
TRANSFERS OF MEMBERSHIP INTERESTS

10.1 WITHDRAWAL BY A MEMBER. A Member may withdraw from the Company at any time by giving notice of withdrawal to the Manager who shall provide Notice of the same to all other Members. Notice of withdrawal must be given by a Member at least 180 calendar days before the effective date of withdrawal. Withdrawal shall not release a Member from any obligations and liabilities under this Agreement accrued or incurred before the effective date of withdrawal. A withdrawing Member shall divest the Member's entire Membership Interest before the effective date of withdrawal in accordance with the transfer restrictions and option rights set forth below.

10.2 CONDITIONS FOR TRANSFER TO OUTSIDE TRANSFEREE. Except as expressly provided in this Agreement, a Member shall not Transfer any part of that Member's Membership Interest in the Company unless:

(a) the other Members unanimously approve the transferee's admission to the Company as a Member upon such Transfer; and,
(b) the Company's legal counsel concludes that the proposed transfer will not violate the securities laws of the United States or the securities laws of the State in which the transferee resides or has its registered office or principal place of business.

10.3 ENCUMBRANCE OF MEMBERSHIP INTERESTS. No Member may Encumber or permit or suffer any Encumbrance of all or any part of that Member's Membership Interest in the Company unless such Encumbrance has been approved in writing by all of the other Members. Any Transfer or Encumbrance of a Membership Interest without such approval shall be void or, in the alternative, may at the option of the Manager be considered a Triggering Event.

10.4 TRANSFERS WHICH MAINTAIN BENEFICIAL INTEREST. Notwithstanding any other provision of this Agreement to the contrary, a Member who is a natural person may transfer all or any portion of his or her Membership Interest to any revocable trust created for the benefit of that Member, or any combination between or among the Member, the Member's spouse, and the Member's issue; provided that the Member retains a beneficial interest in the trust and all of the Voting Interest included in such Membership Interest. A transfer of a Member's entire beneficial interest in such trust or failure to retain such Voting Interest shall be deemed a Transfer of a Membership Interest. included in such Membership Interest.

10.5 TRIGGERING EVENTS. On the happening of any of the following events (Triggering Events) with respect to a Member, the Company and the other Members shall have the option to purchase all or any portion of the Membership Interest in the Company of such Member at the price and on the terms provided in Section 10.8 of this Agreement:

(a) the death or incapacity of a Member;
(b) the bankruptcy of a Member;

Member Initials _____

(c) the winding up or dissolution of a corporate Member, or merger or other corporate reorganization of a corporate Member as a result of which the corporate Member does not survive as an entity;
(d) the withdrawal of a Member; or,
(e) the occurrence of any other event that is, or that would cause, a Transfer in contravention of this Agreement, or, in the alternative, the occurrence of any other event that may elsewhere be defined as a "Triggering Event".

Each Member hereby agrees to promptly give Notice of a Triggering Event to the Manager.

10.6 OPTION OF COMPANY & EXISTING MEMBERS TO PURCHASE. On the receipt of Notice of a Triggering Event, or upon information that a Triggering Event has occurred with respect to a particular Member the Manager shall promptly notify all Members of the same, and the Company shall have the option, for a period of 30 calendar days following the determination of the purchase price as provided in Section 10.8, to purchase the Membership Interest at the price and on the terms provided in Section 10.8. In order for the Company to purchase the Membership Interest on behalf of and for the benefit of all other Members, all Members must approve the purchase and give their unanimous consent.

If the Manager is unable to obtain the unanimous consent of all Members for purchase of the Membership Interest for the pro rata benefit of all the Members, then each separate Member shall have the option for a period of 30 days thereafter to elect to purchase the Membership Interest not purchased by the Company on the same terms and conditions. If several separate Members elect to purchase the Membership Interest, each Member so electing shall, upon purchase of the same, share in the Membership Interest pro rata in accordance to the portion that each purchasing Member's separate Percentage Interest bears to the total Percentage Interest of all Members seeking to purchase. If only one Member elects to purchase the Membership Interest, said interest in the Company shall accrue to that Member upon tender of the purchase price. If no Member elects to purchase the Membership Interest, then and only then the Membership Interest may be purchased by any outside party not then a Member provided the requirements of section 10.2 are met.

10.7 NONPARTICIPATION BY WITHDRAWING MEMBER. No Member shall participate in any Vote or decision with respect to any matter concerning the disposition of that Member's Membership Interest in the Company pursuant to this Article X.

10.8 DETERMINATION OF PURCHASE PRICE. The purchase price of the Membership Interest that is the subject of an option under this Agreement shall be the Fair Market Value of such Membership. The Fair Market Value is hereby defined as the total dollar amount of the Capital Account of the Membership Interest being purchased plus a percent of the total of that Capital Account which equals the average monthly return on Investment experienced by that Membership Interest for the Preceding 12 months multiplied by 12. For example, if the Capital Account of the Membership Interest has a total balance of $100,000.00 at the time of the Triggering Event, and the average monthly return on investment experienced by that Membership Interest during the previous 12 months was 5% per month then the Fair Market Value of the Membership Interest shall be $100,000 plus $60,000.00 (12 x's 5% = 60% x $100,000 = $60,000) for a total Fair Market Value of $160,000.00. If the Membership Interest has been owned for less than 12 months, the average of the number of months the Membership Interest was owned multiplied by that number of months plus the total dollar value of that Member's Capital accounts as aforesaid shall be used to compute Fair Market Value.

10.8.1 TENDER OF PURCHASE PRICE. If the Company is the purchaser of a Member's Membership Interest, the Company may at its option, elect to purchase the Membership Interest by tendering installment payments. The installment period for full tender of the purchase price shall not be more than one year. Upon tender of the final installment payment, full title and ownership to the Membership Interest purchased shall vest in the Company for the benefit of all Members.

10.9 ADMISSION OF OUTSIDE TRANSFEREES. A transferee of a Membership Interest that is not an existing Member may be admitted as a Substituted Member provided:

Member Initials _____

(a) all conditions stated in section 10.2 are satisfactorily met; and,
(b) the transferee executes a counterpart of this Operating Agreement as a party hereto.

Any prospective transferee of a Membership Interest shall be deemed an Assignee, and, therefore, the owner of only an Economic Interest until such prospective transferee has been admitted as a Substituted Member. A Substituted Member is subject to all of the provisions of this Agreement.

ARTICLE XI
DISSOLUTION AND WINDING UP

11.1 EVENTS TRIGGERING DISSOLUTION. The Company shall be dissolved and terminated on the first to occur of any of the following events:

(a) The close of business on May 22, 2031; or,
(b) The written agreement of all Members to dissolve the Company; or,
(c) When the Capital Account of all but one Member drops below $1,000.00 for more than two full calendar months.

11.2 WINDING UP. On the dissolution of the Company, the Company shall engage in no further business other than necessary to wind up the business and affairs of the Company. If the Company is still earning Trading Profits the Manager shall notify the Trading Company of the Company's dissolution and shall request a final distribution to a bank account of the Company of any and all Trading Profits which still remain on account for the benefit of the Company.

The Manager shall wind up the affairs of the Company and shall give Notice of the commencement of winding up by mail to all known creditors and claimants against the Company whose addresses appear in the records of the company. After paying or adequately providing for the payment of all known debts of the Company (except debts owing to Members) the remaining assets of the Company shall be distributed or applied in the following order of priority:

(a) To pay the expenses of liquidation;
(b) To repay outstanding loans from Members;
(c) Among the Members to each capital account in accordance with each Member's Percentage Interest subject to the provisions and requirements of Article IV, Section 4.4

11.3 NO RECOURSE UPON WINDING UP. Each Member shall look solely to the assets of the Company for the return of the Member's investment and if the Company's bank account balances and other assets remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the principal amount of the investment of any Member, such Member shall have no recourse against any other Member or Members for indemnification, contribution or reimbursement.

ARTICLE XII
ARBITRATION

12.1 ARBITRATION TO BE RESOLUTION REMEDY OF CHOICE. The parties hereby submit all controversies claims and matters of difference in any way related to this Agreement, the Company or any investment in the Company to binding arbitration in Delaware. This submission and agreement to arbitrate is specifically enforceable. The parties hereby state and affirm their intent that this Section 12.1 of the Agreement be construed to remove all uncertainty with regard to the requirement of arbitration as stated herein and any question or controversy with respect to this issue shall be resolved in favor of mandatory binding arbitration.

Member Initials _____

12.2 APPOINTMENT OF ARBITRATOR. There shall only be one arbitrator. The arbitrator shall be selected by the American Arbitration Association or such similar body or organization. Each party shall bear its own costs and expenses and an equal share of the fee charged by the arbitrator and such other administrative fees associated with the arbitration.

12.3 ARBITATION TO BE BINDING. The Parties hereto agree to abide by all awards rendered in the arbitration proceedings. The awards shall be final and binding on all parties to the maximum extent allowed by applicable law. All awards may be filed with the clerk of one or more courts having jurisdiction over the party or the property of the party against whom such an award is rendered.

12.4 DISCOVERY. Consistent with the expedited nature of arbitration, discovery is limited to each party's production of copies of those documents and/or access to such other things that the party intends to introduce into evidence at the arbitration hearing. Any dispute regarding discovery is determined by the arbitrator, which determination is conclusive. All discovery must be completed within 45 days following appointment of the arbitrator. No interrogatories, requests for admission or depositions are allowed.

12.5 REMEDIES ALLOWED. The parties specifically understand and agree the arbitrator shall have no authority to award any of the following remedies:

(a) punitive or other damages not measured by the prevailing party's actual damages;
(b) consequential damages;
(c) injunctive relief or direction to any party other than the direction to pay a monetary amount; or
(d) interest on any award (pre-judgment or post judgment) exceeding 6% per annum, simple interest.

ARTICLE XIII
GENERAL PROVISIONS

13.1 MODIFICATIONS AND AMENDMENTS MUST BE IN WRITING. This Agreement constitutes the whole and entire agreement of the parties with respect to the subject matter of this Agreement and it shall not be modified or amended in any respect except by a written instrument executed by all the parties. This Agreement replaces and supersedes all prior written and oral agreements by and among the Members or any of them.

13.1 COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13.2 SEVERABILITY. This Agreement shall be construed and enforced in accordance with the laws of Delaware. If any provision of this Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal, or unenforceable to any extent, that provision shall, if possible, be construed as though more narrowly drawn, if a narrower construction would avoid making that provision invalid, illegal, or unenforceable or, if that is not possible, such provision shall be severed, to the extent it is determined to be invalid, illegal or unenforceable and the remaining provisions of this Agreement shall remain in effect.

13.3 BINDING ON HEIRS AND SUCCESSORS. This Agreement shall be binding on and inure to the benefit of the parties and their heirs, personal representatives, and permitted successors and assigns.

13.4 INTERCHANGEABILITY OF TERMS. Whenever used in this Agreement, the singular shall include the plural, the plural shall include the singular, and the neuter gender shall include the male and female as well as a trust, firm, company, or corporation, all as the context and meaning of this Agreement may require.

13.5 MUTUAL COOPERATION. The parties to this Agreement shall promptly execute and deliver any and all additional documents, instruments, notices, and other assurances, and shall do any and all other acts and things, reasonably necessary in connection with the performance of their respective obligations under this Agreement and reasonably necessary to carry out the intent of the parties. Member Initials _____

13.6 LACK OF CONFLICT WITH OTHER ACTIVITIES. Except as specifically provided in this Agreement, no provision of this Agreement shall be construed to limit in any manner the Members in the carrying on of their own respective businesses or activities.

13.7 NO AGENCY CREATED. Except as specifically provided herein, no provision of this Agreement shall be construed or interpreted to constitute a relationship of agency between the Members and no Member shall be considered to be the agent of any other Member or all of the other Members.

13.8 AUTHORITY TO CONTRACT. Each Member represents and warrants to the other Members that the Member has the capacity and authority to enter into this Agreement.

13.9 HEADINGS ARE MATTER OF CONVENIENCE ONLY. The article and section titles and headings contained in this Agreement are inserted as a matter of convenience and for ease of reference only and shall be disregarded for all other purposes, including the construction or enforcement of this Agreement or any of its provisions.

13.10 ADDITIONAL PROVISIONS.

(1) This Agreement may be altered, amended, or repealed only by a unanimous Vote of all the Members.
(2) Time is of the Essence for every provision that specifics a time for performance.
(3) This Agreement is made solely for the benefit of the parties to this Agreement and their respective permitted successors and assigns, and no other person or entity shall have or acquire any right by virtue of this Agreement.
(4) The Members intend the Company to be a limited liability company under the Act. No member shall take any action inconsistent with this express intent of the parties to this Agreement.

IN WITNESS WHEREOF, the parties have executed or caused to be executed this Agreement on the day and year first above written.

Printed Name of member: Ido Zilman

Signature of member: _____

If member is to be a corporation or other business entity, indicate name and position of individual executing this Operating Agreement on behalf of the company or entity:

Printed name of authorized person: _____

Position: _____

Equity Financial Group, LLC. Manager and Initial Member

By _____
Vincent Firth, Managing Director

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 19358 Blythe Street, Reseda, CA 91335.

On February 9, 2005 I served the foregoing document described as:

INVESTOR DON ZINMAN (CLAIM NO. 88), THROUGH HIS ATTORNEY J.R. NERONE, HEREBY OBJECTS TO EQUITY RECEIVER FOR DEFENDANTS' PROPOSED INTERIM DISTRIBUTION PLAN, AS STATED IN THE SUPPORTING PAPERS FOR HIS MOTION FOR AUTHORITY TO MAKE INTERIM DISTRIBUTION ON ACCOUNT OF INVESTOR CLAIMS

on the interested parties in this action by placing a true copy of the original in a sealed envelope addressed as follows:

CLERK OF COURT
UNITED STATES DISTRIC COURT FOR THE DISTRICT OF NEW JERSEY
MITCHELL H. COHEN FEDERAL BUILDING & U.S. COURTHOUSE
1 JOHN F. GERRY PLAZA
CAMDEN, NJ 08101

STEPHEN T. BONO
SACHNOFF & WEAVER, Ltd
10 S. WACKER DRIVE, 40th FLOOR
CHICAGO, IL 60606

I deposited such envelope with the U.S. Postal Service Over Night Delivery with postage fully paid at Los Angeles, CA.

I am readily familiar with my firms practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postal meter date is more than one day after the date of deposit for mailing in this affidavit.

Executed on February 9, 2005 at Los Angeles, CA. I declare under penalty of perjury under the laws of California that the above is true and correct.

Helena Nerone