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

**COMMODITY FUTURES TRADING )  
COMMISSION, )**

**Plaintiff, )**

**vs. )**

**Civil Action No.: 04CV 1512**

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

**Honorable Robert B. Kugler**

**Defendants. )**

**EIGHTH APPLICATION OF EQUITY RECEIVER  
AND SACHNOFF & WEAVER, LTD. FOR INTERIM  
COMPENSATION AND EXPENSE REIMBURSEMENT**

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, and his principal counsel, Sachnoff & Weaver, Ltd. ("Sachnoff & Weaver"), file this application with the Court requesting an award of interim compensation and expense reimbursement for services rendered from January 1, 2006 through March 31, 2006. The Receiver and Sachnoff & Weaver (collectively

the “Applicants”) seek interim compensation in the amount of \$218,088.50 and reimbursement of expenses in the amount of \$15,754.22.

### **BACKGROUND AND CASE STATUS**

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

2. Later that month, with the Court’s approval, the Receiver employed counsel and an accounting firm to assist him with administering the receivership estate. The Receiver engaged Sachnoff & Weaver as his principal counsel, Pepper Hamilton LLP as his local counsel, and FGMK, LLC as his accountant.

3. On August 12, 2004, in light of additional facts that emerged from the CFTC’s ongoing investigation of the Defendants and their business affairs, the CFTC amended its complaint to name five additional Defendants – Tech Traders, Ltd., Magnum Investments, Ltd., Magnum Capital Investments, Ltd., Coyt E. Murray, and J. Vernon Abernethy. Within two weeks, all named Defendants consented to the Court’s entry of a preliminary injunction. Under these preliminary injunction orders, the Court appointed Mr. Bobo as the Receiver for Tech Traders, Inc., Tech Traders, Ltd., Magnum Investments, Ltd., Magnum Capital Investments, Ltd., Equity Financial Group, LLC, Vincent Firth, and Robert Shimer (the “Receivership Defendants”).

4. In June 2004, the Receiver filed a motion to approve an investor claim process so as to identify the investors who placed funds with the Receivership Defendants. With the Court's approval, in late August 2004, the Receiver distributed claim forms to all individuals and entities identified as possibly having invested funds with the Receivership Defendants through Shasta Capital Associates, LLC ("Shasta"), the pool managed by Equity Financial Group ("Equity"), or directly with Tech Traders. The Receiver distributed approximately 170 claim forms and received in return 105 proofs of claim from investors.

5. In early January 2005, following his review and analysis of these proofs of claim and supporting documentation from investors, the Receiver filed a motion for authority to make an interim distribution on account of investor claims. Later that month, the Receiver provided investors with notice of his proposed plan of distribution. The Court considered and overruled various objections and approved the proposed plan of distribution as modified.

6. The Receiver filed formal objections to 28 proofs of claim that required resolution by the Court in late March 2005. Throughout 2005, the Receiver and his counsel worked to resolve these claim disputes, and in most cases, those efforts were successful. Six claimants who originally failed to respond to the objections were the subject of an order directing them to respond and to appear at a Court hearing on November 2, 2005 and show cause why their claims should not be disallowed. At the hearing, none of those six claimants appeared, but two Tier 2 investors were present. They both sought for their claims to be treated as Tier 1 claims for purposes of distribution. Magistrate Judge Donio heard evidence on their requests and recently issued a Report and Recommendation calling for the disallowance of the claims of the non-responding investors and overruling the requests of the Tier 2 investors.

7. A major hurdle in the case has been the disputed claims of the Sterling entities. Despite the complexities underlying the Sterling entities' proofs of claim, the Receiver and his counsel have continued to work towards resolving them. The Receiver also has made significant progress with regard to the Sterling Trust (Anguilla) account at Man Financial, which remains frozen. In late February 2006, the Receiver and the Sterling entities reached a settlement agreement regarding the funds held in this account. The settlement agreement will result in a benefit to Tech Traders of nearly \$750,000. The Receiver sought and obtained court approval of the settlement. Throughout the first quarter of 2006, the Receiver also engaged in ongoing communications with certain Sterling Tier 2 investors to determine the feasibility of making a provisional distribution to these investors. At this time, the Receiver has issued claim forms to these investors to obtain as much information from them as possible before making a final determination on a the feasibility provisional distribution.

8. The only other claims that remain in dispute at this time are those of certain Tier 3 investors in Universe, which is an investment group that transferred over \$3 million to Shasta for investment purposes. In response to Magistrate Judge Donio's directive, the Receiver and his counsel sought Court for its approval for a proposed interim distribution directly to the investors of Universe. The Receiver also submitted a motion to disallow certain Universe investor claims. At this time, the distribution has been approved and consummated, and the Court is still considering the merits of the Receiver's motion to disallow certain Universe investor claims.

9. Through March 31, 2006, the Receiver maintains exclusive control of receivership funds totaling approximately \$9.34 million previously held by banking institutions Bank of America and Citicorp and brokerage firms Forex Capital Markets, Global Forex Trading, Man Financial, and Rosenthal Collins Group. LaSalle Bank, N.A. continues to serve as

the designated depository for the receivership funds. During the first quarter of 2006, the Receiver restructured the accounts holding these funds so that the funds could be invested in higher yielding alternatives, including government-backed money market accounts and U.S. Treasury Bills. As of June 30, 2006, the Receiver maintains approximately \$4,884,687 in general Tech Traders and Shasta receivership accounts and \$4,453,574 in reserve accounts for disputed claims against Tech Traders and Shasta, as well as for potential Magnum investor claims. The remaining frozen assets continue to be held in Man Financial account number 37923. According to a March 2006 account statement from Man Financial, these assets, which are primarily held in 10-year U.S. Treasury Notes, have an "account value at market" of \$1,803,987.86. The Receiver understands that the actual value of the Treasury Notes is significantly greater.

10. The Receiver's accountants have effectively completed their analyses of the transactions of Tech Traders and Shasta and its affiliates, along with analyses of the transactions of Magnum Investments, Ltd. and Magnum Capital Investments, Ltd. The Receiver continues to await production of documents requested from a single Bahamian banking institution that was shut down in 2001 and placed under administration.

11. With the assistance of his accountants, the Receiver continues to resolve tax-related issues involving the corporate Defendants, as well as Shasta. In late March 2006, the Receiver, with FGMK's assistance, filed Shasta's 2005 tax return. The Receiver also finalized and distributed 2005 Schedule K-1s to Shasta investors.

12. The Receiver and his counsel continue to investigate the Receivership Defendants' business affairs and, specifically, these Defendants' handling of investor funds, both through discovery and informally. In late 2005, the Receiver's counsel participated in the five-

day deposition of Defendant Shimer, which significantly assisted the Receiver in evaluating potential liability of third parties in the case, including former professionals for Shasta, as well as those investors who received Tech Traders' funds in repayment of their previous investments in Kaivalya Holding Group ("Kaivalya") and Edgar Holding Group ("Edgar").

13. Assisted by information revealed by Shimer and others during the discovery process, the Receiver and his counsel have focused their recent efforts on investigating potential claims against third parties. The Receiver's counsel researched possible claims against Shasta investors who received funds from Tech Traders in repayment of previous investments made with other entities, such as Kaivalya. The Receiver's counsel ultimately sent demand letters to these investors demanding repayment of the amounts paid to them by Kaivalya and has had communications with them about the repayments due and owing to the receivership estate. The Receiver and his counsel have also been investigating potential claims against the futures commission merchants through which certain Receivership Defendants traded commodity futures.

14. Finally, the Receiver and his counsel continue their investigation into potential claims against firms that provided professional services to the Receivership Defendants. For example, during the first quarter of 2006, the Receiver's counsel participated in the conclusion of the deposition of Elaine Teague, the former accountant of Shasta, to determine her potential liability (and of her accounting firm, Puttman & Teague) in this case. Her testimony, along with other circumstances in the case, have led the Receiver and his counsel to conclude that Puttman & Teague should bear responsibility for a significant portion of the Shasta investors' damages. The Receiver and his counsel have negotiated an agreement in principle which may result in a settlement agreement with Teague and her firm. However, several important issues remain to be

resolved. The efforts to gain discovery and investigate potential claims resulted in an increased level of activity by the Receiver and his counsel during the first quarter of 2006. That increased level of activity is reflected by the higher amount of compensation requested for this period.

**NATURE OF THE SERVICES RENDERED AND EXPENSES INCURRED**

15. From January 1, 2006 through March 31, 2006, the Applicants provided 878.35 hours of services as Receiver and as principal counsel for the Receiver. The Receiver and his counsel continue to balance the need to be diligent on behalf of the investors with the need to be conscious of the costs to the receivership estate. During this quarter, the Receiver and his counsel spent substantially more time and resources on this case than in recent quarters. This higher level of activity is primarily attributable to discovery and investigation of potential third party claims. To help ensure that costs to the estate remain reasonable, however, the Receiver and his counsel seek compensation for only 746.15 hours, or about 85 percent, of the total services provided. For the Court's benefit in reviewing this application, the Applicants' services are divided into 7 categories:

- A. General estate administration;
- B. Communications with investors;
- C. Claims and distribution issues;
- D. Investigation of claims against third parties;
- E. Review of Defendants' transactions;
- F. Discovery; and
- G. Court hearings and preparation of motions and other submissions.

A copy of Sachnoff & Weaver's statement of services by category is attached as Exhibit C to the Declaration of Stephen T. Bobo as Equity Receiver in Support of the Eighth Applications for

Interim Compensation and Expense Reimbursement of Equity Receiver, Sachnoff & Weaver, Ltd. and Pepper Hamilton LLP and the Seventh Application Interim Compensation and Expense Reimbursement of FGMK, LLC.

16. In its April 1, 2004 Order, the Court directed the Receiver and his counsel to file fee applications on a quarterly basis. On March 24, 2006, the Applicants filed their seventh fee application with the Court for the period from October 1, 2005 through December 31, 2005, wherein they requested fees in the amount of \$184,782.50 and expenses in the amount of \$12,216.70. The Applicants await the Court's ruling regarding this seventh fee application.

**A. General Administration of the Estate**

17. The Applicants seek compensation for 90.00 hours of professional services related to the administration of the receivership estate from January 1, 2006 through March 31, 2006. Of the 90.00 hours of professional services rendered, 9.20 hours (totaling \$1,935.00 in compensation requested) are directly attributable to services related to Shasta tax returns. The Receiver therefore requests that funds held for Shasta be used to pay for these 9.20 hours of services. Among the services that the Receiver and his counsel performed in administering the estate are:

- Supervising the preparation and filing of Shasta's 2005 tax return;
- Overseeing the preparation of Schedule K-1s for Shasta investors for 2005 and distributing them, along with an explanatory letter from the Receiver;
- Finalizing and filing the Fourth Interim Report of Equity Receiver to the Court, which included an in-depth analysis of the Magnum entities and their role in this case, as well as an updated Tech Traders, Inc. analysis;
- Preparing and filing a seventh fee application on behalf of the Receiver's counsel;

- Preparing and filing a sixth fee application on behalf of the Receiver's accountants;
- Communicating on a regular basis with attorneys for the CFTC and the Receivership Defendants;
- Working with the CFTC to calculate and finalize the damages suffered by investors at the Shasta and Tech Traders levels;
- Investigating and selecting money market accounts and T-Bills as higher yielding alternatives for the receivership funds held by the Receiver at LaSalle Bank, the designated depository for the funds of the Receivership Defendants;
- Supervising Sachnoff & Weaver's Accounting Department and LaSalle Bank to ensure proper maintenance of these accounts;
- Updating the Shasta website in January 2006 to apprise investors of new developments in the case; and
- Communicating with the State of Maine Department of Securities regarding certain investors who transferred funds to Tech Traders.

**B. Communications With Investors**

18. The Receiver and his counsel continue to communicate with investors about the status of the case and related distribution issues. During the first quarter of 2006, the Receiver and his counsel have been contacted by Universe investors about the interim distribution proposed by the Receiver in his February 19, 2006 motion. These investors have raised various questions and concerns both about the Receiver's proposed plan and the pending distribution process, which the Receiver and his counsel continue to address on a regular basis.

19. In addition, the Receiver has been contacted by various individuals and representatives of trusts that invested with Tech Traders through the Sterling entities. Among

the Tier 2 Sterling investors who contacted the Receiver are CMP Fund and the DRL Twenty Plus Fund. Based on his review of the situation, the Receiver sought and received Court approval to make a provisional distribution directly to those Tier 2 investors. Other Tier 2 Sterling investors, including individuals who invested through Strategic Investment Portfolio and trusts that invested through Sterling Investment Management Ltd., have also contacted the Receiver to find out whether they too may receive a direct provisional distribution. The Receiver is currently reviewing the information submitted by these investors to determine whether such a provisional distribution is feasible and appropriate.

20. The Receiver and his counsel continue to frequently respond to questions about tax-related issues, including the amended Schedule K-1s for 2002 and 2003 and Schedule K-1s for 2004 distributed to Shasta investors in late 2005. The Receiver also continues to communicate with investors by way of the Shasta website located at [www.shastacapitalassociates.com](http://www.shastacapitalassociates.com), and provides updates to visitors when appropriate. The Applicants provided 21.35 hours of services in this category during the first quarter of 2006.

**C. Claims and Distribution Issues**

21. The Applicants seek compensation for 106.30 hours of professional services related to investor claims and distribution issues during the first quarter of 2006. Of the 106.30 hours of professional services rendered, 23.40 hours (totaling \$7,683.00 in compensation requested) are directly attributable to the distribution of receivership funds to Universe investors. The Receiver therefore requests that the funds specifically held in reserve for Universe expenses (pursuant to the Court's April 17, 2006 order) be used to pay for these services.

22. Based on Magistrate Judge Donio's directive, during this quarter, the Receiver and his counsel prepared and submitted to the Court for its approval a motion for authority to

make an interim distribution directly to the Tier 3 investors of Universe. In so doing, the Receiver and his counsel, with significant assistance from the CFTC, reviewed information provided by Universe investors relating to their investments with Shasta, along with relevant accounting and bank records for Universe. In addition, the Receiver communicated with David Perkins, Manager of Universe, regarding potential Universe creditors and other issues that could impact the proposed distribution to Universe investors.

23. The Receiver also submitted a motion to disallow certain Universe investor claims. The grounds for disallowance are: (1) investors' failure to submit a claim with supporting documentation; (2) their receipt of Tech Traders' funds as repayment of earlier investments with Kaivalya; or (3) the need to aggregate the investors' claims for distribution purposes. At this time, the Court is still considering the merits of the Receiver's motion.

24. During early January 2006, the Receiver and his counsel engaged in discovery concerning the disputed claims of several Shasta investors, including Jeffrey Marrongelle, Marsha Green, Nancy Omaha Boy, and Nancy and Thomas List, in preparation for an evidentiary hearing on these claims. The Receiver previously objected to these claims because the investors had received Tech Traders' funds as repayment for their prior investments with Kaivalya or Edgar. The Receiver and his counsel responded to discovery requests from these investors and prepared proposed stipulations of fact. In the midst of this discovery process, the parties reached settlement agreements. The Court has since approved these settlement agreements which include transferring the reductions in the claimants' distributions to the Tech Traders account. The net benefit to the Tech Traders estate from these settlements is approximately \$145,000 based on the initial distribution, and subsequent distributions will increase the amount of that benefit.

25. The Receiver continues to work through the remaining issues related to the Sterling entities' claims. As a result of further analysis and negotiation, the Receiver and the Sterling entities and their counsel reached a settlement agreement regarding the funds held in the Sterling Trust (Anguilla) account at Man Financial. The Receiver submitted this settlement agreement to the Court, which approved it in March 2006. This settlement will increase the funds in the Tech Traders' estate by nearly \$750,000. In addition, the Receiver reviewed the final distribution plans submitted by CMP Fund and DRL Twenty Plus Fund, Tier 2 investors that invested over \$10 million with Tech Traders through Sterling Bank to ensure these plans complied with the terms of the Court's order approving the provisional distribution. Finally, the Receiver engaged in ongoing communications with other Sterling Tier 2 investors to determine the feasibility of making a provisional distribution directly to them.

**D. Investigation of Claims and Other Assets**

26. The Applicants seek compensation for 200.80 of services related to investigating potential causes of action against third parties from January 1, 1006 through March 31, 2006. During this quarter, the Receiver and his counsel continued to closely scrutinize the conduct of both Shasta's prior accountant, Puttman & Teague, and its former counsel, Arnold & Porter, to determine their potential liability in this case. Of the 200.80 hours of professional services performed, 15.50 hours (totaling \$5,431 in compensation requested) directly relate to these investigations. The Receiver therefore requests that funds held for Shasta be used to pay for these services. In addition to preparing for and participating in the deposition of Elaine Teague of Puttman & Teague, the Receiver's counsel prepared a comprehensive damages analysis and draft complaint against Puttman & Teague, entered into a tolling agreement with Puttman & Teague, and participated in initial settlement discussions with the accounting firm's counsel. At

this time, the parties have reached a settlement in principle, but significant details remain to be resolved.

27. In addition, Receiver prepared for and participated in the 30(b)(6) deposition of Arnold & Porter. Based on the information revealed at this deposition, the Receiver's counsel entered into a tolling agreement with Arnold & Porter, along with an order for the turnover of assets because the firm held a small retainer from Tech Traders. The Receiver has also reviewed documents and analyzed potential claims against former counsel for Tech Traders, McDermott Will & Emery, relating to the firm's duty of care.

28. The Receiver and his counsel have also scrutinized the conduct of the futures commission merchants through which certain Receivership Defendants traded futures contracts, including Man Financial Inc. and Rosenthal Collins Group. Initially, the Receiver's counsel analyzed potential claims that may be brought against futures commission merchants under the Commodity Exchange Act along with other federal statutes and various state laws. The Receiver and his counsel also reviewed relevant materials, including compliance manuals, email correspondence, and trading information, which the futures commission merchants provided in response to the Receiver's subpoenas. The Receiver and his counsel intend to depose several witnesses, including the 30(b)(6) representative for Man Financial Inc. After conducting these depositions, the Receiver will then determine whether viable claims exist against these futures commission merchants.

**E. Review of Defendants' Transactions**

29. For the first quarter of 2006, the Applicants seek compensation for 52.90 hours of services related to reviewing the Receivership Defendants' transactions. The Receiver and his

counsel worked with the accountants at FGMK, LLC to finalize as far as possible the financial analyses for Magnum Investments, Ltd. and Magnum Capital Investments, Ltd.

30. The Receiver has also spent time reviewing relevant transactions at the Tech Traders and Magnum levels. In so doing, the Receiver has identified transactions that require additional information. The Receiver and his counsel have corresponded with counsel for Coyt Murray in an effort to obtain this information. The Receiver and his counsel also conducted a telephone interview with Murray and his counsel on Murray's dealings with both the futures commission merchants that maintained trading accounts for Tech Traders and Magnum and the former counsel for Tech Traders. Through these efforts, the Receiver has been able to better assess the potential third-party liability. This information has also allowed the Receiver to assist the CFTC in calculating the total amount of damages suffered by investors as a result of the conduct of the Receivership Defendants.

31. In addition, the Receiver has requested relevant information from various Receivership Defendants regarding their current assets and liabilities. Specifically, the Receiver has sought federal tax returns filed by Shimer from 1999 through 2003 to gain a better understanding of the flow of funds in and out of the bank accounts maintained by Kaivalya, Edgar, and Equity Financial Group, all of which received funds from and transferred funds to various accounts maintained in Shimer's name. Shimer refused to produce these tax returns to the Receiver, and, therefore, the Receiver filed a motion to compel production of them, along with a reply in support of this motion. The Court has not yet ruled on this motion.

**F. Discovery**

32. The largest component of the Applicants' services during the first quarter of 2006 was the 216.00 hours spent related to discovery. The Receiver has calculated that 45.20 hours

(totaling \$15,794.00 in compensation requested) of that total were spent in connection with Puttman & Teague, Shasta's former accountant, and Arnold & Porter, Shasta's former counsel. The Receiver therefore requests that Shasta funds be used to pay for these particular services.

The discovery efforts were both extensive and time intensive, and they include:

- Preparing for and participating in the three-day conclusion of the deposition of Elaine Teague, which took place in Portland, Oregon;
- Communicating with McDermott Will & Emery regarding the firm's refusal to (1) produce documents in response to the Receiver's subpoena duces tecum, and (2) return Tech Traders' funds previously provided as a retainer by Tech Traders;
- Reviewing and analyzing the QuickBooks for Tech Traders and the Magnum entities to identify relevant transactions and following up with counsel for Murray about these transactions;
- Responding to requests for production of documents issued by the five disputed Shasta investors who had received Tech Traders' funds in repayment of their earlier investments in Kaivalya and Edgar;
- Participating in telephone conferences with these investors regarding their requests for production of documents and other discovery-related inquiries;
- Reviewing the documents produced by these investors and preparing proposed stipulations of fact in anticipation of an evidentiary hearing on the investors' disputed claims;
- Preparing for and participating in the 30(b)(6) deposition of third party Arnold & Porter, former counsel for Shasta;

- Preparing and participating in the deposition of third party Robert Collis, an accountant who decided against providing accounting services to Tech Traders;
- Drafting and serving a subpoena duces tecum (along with a detailed rider) on Born Capital LLC, one of Tech Traders' commodity futures brokers;
- Participating in a telephone conference with Buck Haworth, President of Born Capital LLC;
- Preparing for the deposition of Haworth (the deposition was taken during the second quarter of 2006);
- Drafting and serving a subpoena duces tecum and deposition subpoena (along with detailed riders) on Man Financial Inc., a futures commission merchant that maintained trading accounts for Tech Traders;
- Drafting and serving a subpoena duces tecum (along with a detailed rider) on Rosenthal Collins Group, a futures commission merchant that maintained trading accounts for Tech Traders;
- Reviewing and analyzing documents produced by Born Capital LLC, Man Financial Inc., and Rosenthal Collins Group to determine the potential liability of these third parties;
- Communicating with McDermott Will & Emery, former counsel for Tech Traders and Coyt Murray, in an attempt to resolve the parties' outstanding discovery dispute; and
- Participating in telephone conferences with Magistrate Judge Donio regarding discovery scheduling and planning.

**G. Court Hearings and Preparation of Motions and Other Submissions**

33. The Applicants seek compensation for 58.80 hours of services related to participating in Court hearings and drafting motions and other submissions to the Court. During the first quarter of 2006, the Receiver and his counsel participated by telephone in each of the conferences and hearings before Magistrate Judge Donio to minimize costs to the receivership estate.

34. During this period, the Receiver prepared and filed with the Court several significant pleadings, including a motion for authority to make an interim distribution to certain Tier 3 Universe investors, the Receiver's initial objections to select Tier 2 Universe investor claims, the reply in support of the Receiver's to motion to compel Defendant Robert Shimer to produce tax returns, motions to approve the settlement agreements with Kaivalya claimants Jeffrey Marrongelle, Marsha Green, Nancy Omaha Boy, and Nancy and Thomas List, a motion for the turnover of funds from Arnold & Porter (the former counsel for Shasta), and the Receiver's motion for entry of an order approving the settlement relating to the Man Financial account in the name of Sterling Trust (Anguilla).

35. In addition, the Receiver prepared and filed with the United States District Court for the District of Columbia a reply in support of his motion to compel McDermott Will & Emery, the former counsel for the Tech Traders entities and Coyt Murray, to produce documents relating to their representation of Tech Traders and Murray. The Receiver also filed his response to McDermott Will & Emery's motion for a protective order regarding the document production.

36. Finally, the Receiver prepared and filed other submissions as necessary to respond to other filings and to keep the Court abreast of his efforts on behalf of the receivership estate, including the Fourth Interim Report of Equity Receiver, Seventh Applications of Equity

Receiver, Sachnoff & Weaver, Ltd. and Pepper Hamilton LLP for Interim Compensation and Expense Reimbursement, and the Sixth Application of FGMK, LLC for Interim Compensation and Expense Reimbursement.

#### **H. Reimbursement of Expenses**

37. The Applicants seek reimbursement for a total of \$15,754.22 in expenses incurred from January 1, 2006 through March 31, 2006. Since the inception of this case, the Applicants have consciously attempted to minimize their expenses. During this period, the three largest expense categories were computerized legal research costs, photocopying charges and deposition transcript fees. Computerized legal research costs were attributable to investigating potential claims against third parties. In particular, the Receiver's counsel researched possible claims that could be asserted against the futures commission merchants that maintained trading accounts in the names of various Receivership Defendants. The Receiver's counsel also researched various issues relating to potential claims against the professional firms that provided accounting and legal services to the Receivership Defendants. In an effort to ensure that the expenses incurred were reasonable and added value to the Receivership estate, the Receiver exercised his billing judgment to reduce the amount sought for computerized legal research by one third, or by approximately \$4,000. The photocopying charges were incurred primarily for copying (1) pleadings for service on parties of record, including the Receiver's motion for authority to make an interim distribution to certain Universe investors and the Receiver's objections to certain Universe investor claims, and (2) documents produced by various third parties, including Man Financial Inc., Rosenthal Collins Group, and Universe investors. The third largest expense category was for the transcript for the Elaine Teague deposition. Other categories of expenses incurred were travel expenses, postage expenses, long-distance telephone charges, overnight

delivery, and messenger charges. A summary of these expenses is included in Exhibit C to the Declaration of Stephen T. Bobo. A detailed breakdown of these expenses is also available should the Court or any party wish to review this information.

**REASONABLENESS OF THE COMPENSATION REQUESTED**

38. The Receiver understands that the compensation and expenses sought by this application are considerable; however, he has attempted to keep them at a reasonable level through the efficient administration of the Receivership Defendants' estate. As discussed at length above, throughout this quarter, the Receiver and his counsel engaged in a great deal of discovery and investigated a number of potential claims against third parties with the goal of increasing the assets of the receivership estate for the ultimate benefit of the investors. As a result, the Receiver and his team provided over 870 hours of services on behalf of the estate. Recognizing that the costs of these services are borne primarily by the investors, the Receiver has exercised his billing judgment to reduce the amount of hours for which compensation is sought by over 132 hours – equal to an additional discount of almost \$36,000.

39. As discussed in paragraphs 17, 26, and 32 above, a significant amount of the work performed by the Receiver and his counsel was for the exclusive benefit of Shasta's investors. Specifically, the Receiver and his counsel investigated the potential liability of Shasta's former accountant, Puttman & Teague, and its prior counsel, Arnold & Porter, including conducting depositions of relevant parties. The Receiver and his counsel also prepared and filed (with the assistance of the Receiver's counsel) Shasta's tax returns and prepared and distributed Schedule K-1s to Shasta investors. In sum, 69.90 hours performed by the Receiver and his counsel can be tied directly to Shasta and were performed solely for the benefit of Shasta's investors. These services represent \$23,160.00 in compensation sought and \$3,145.90 in expenses advanced and

incurred. The Receiver has therefore submitted a proposed Order that authorizes him to use funds held for Shasta to pay the \$23,160.00 of the compensation sought and \$3,145.90 of the expenses advanced.

40. Similarly, as discussed in paragraph 21 above, a portion of the services provided in the category of Claims and Distribution Issues (Section C) was for the exclusive benefit of Universe investors. The proposed Order that authorizes the Receiver to use funds held in reserve for Universe to pay \$7,683.00 of the compensation requested.

41. The Receiver continues to rely on a small group of attorneys and staff primarily consisting of one partner, one associate, and one paralegal from Sachnoff & Weaver's litigation group to assist him in carrying out the Court's orders. Other attorneys at Sachnoff & Weaver with expertise in estate planning and commodity futures litigation have provided discrete services on behalf of the Receiver at various points in the case. Finally, the Receiver has sought the services of a document clerk to help organize and manage the voluminous and ongoing production of documents turned over by the Receivership Defendants and relevant third parties, including investors, brokerage firms, and banking institutions.

42. In routine matters, such as reviewing documents and drafting motions and reports to the Court, the Receiver has primarily relied upon an associate and paralegal. The Receiver has primarily relied upon another member of the firm to participate in relevant depositions in the case. Of the total of 746.15 hours for which compensation is sought in this application, 458.30 hours, or approximately 61% of the total, were provided by the Receiver and another member of the firm. Associates provided 225.05 hours, which is approximately 30% of the total. Paralegals provided 55.50 hours, or over 7% of the total. Litigation Support performed .50 hours at a rate

of \$185 per hour, and a Litigation Document Clerk performed the remaining 6.80 hours at the significantly reduced rate of \$75 per hour.

43. The Receiver also continues to seek the assistance of the CFTC when appropriate. Specifically, the Receiver has looked to the CFTC for assistance in investigating certain transactions, serving subpoenas for relevant records from bank and trading institutions, uncovering the assets in the possession of, or under the control of, the Receivership Defendants, investigating the trading losses of the Receivership Defendants, and reviewing information provided by the Universe investors relating to their investments with Shasta, along with relevant accounting and bank records for Universe. The Receiver's reliance on the CFTC for various tasks has greatly helped to control the costs of this engagement.

44. The Receiver requests payment for his services at the discounted rate of \$350 per hour, which the Receiver believes to be justified in light of his experience in these types of matters. In addition, Sachnoff & Weaver continues to seek compensation for its attorneys and paralegals at a discount ranging from 5 to 9 percent of their customary hourly rates instead of the straight 5 percent discount promised in the motion to employ Sachnoff & Weaver. These discounted rates range from \$135.00 to \$425.00. Total time and fees sought for each attorney, paralegal and staff member are summarized in the following table:

<u>Timekeeper</u>	<u>Practice Group</u>	<u>Total Hours</u>	<u>Hourly Rate</u>	<u>Compensation Requested</u>
Stephen T. Bobo	Financial Services	221.10	\$350.00	\$77,385.00
Bina Sanghavi	Litigation	236.20	\$350.00	\$82,670.00
Raven Moore	Litigation	224.80	\$220.00	\$49,456.00
Brian D. Roche	Litigation	1.00	\$425.00	\$425.00
Erica E. Lord	Estate Planning	0.25	\$230.00	\$57.50
Jennifer K. Fryer	Litigation Paralegal	55.50	\$135.00	\$7,492.50
Litigation Support	Litigation Support	0.50	\$185.00	\$92.50
Document Clerk	Litigation	6.80	\$75.00	<u>\$510.00</u>
			<b>FEE TOTAL</b>	<b>\$218,088.50</b>

45. The Applicants have kept their time in tenths of an hour, or six-minute increments. As explained in Paragraph 38 above, the Receiver has exercised his billing judgment where appropriate to further reduce the services for which compensation is sought, as well as the resulting amount of compensation requested. In an effort to avoid charging for services that could be deemed excessive, duplicative or unnecessary, the Applicants do not seek compensation for strictly administrative or ministerial tasks.

46. Finally, the Applicants agreed to take on this matter with no assurance that funds would exist in the Receivership Defendants' estate to compensate for professional services rendered by the Applicants. Neither the Receiver nor Sachnoff & Weaver holds a retainer for the services that they continue to provide to the Receivership Defendants. The Applicants have acted expeditiously in administering the receivership estate and investigating the affairs of the Receivership Defendants. For these reasons, the Applicants are deserving of the full amount of the compensation requested.

#### **RELIEF REQUESTED**

Based upon the amount of services provided, the skill required, and the results achieved to date, the Applicants submit that the compensation requested is justified and payment is appropriate.

WHEREFORE, the Applicants respectfully request that this Court enter an order:

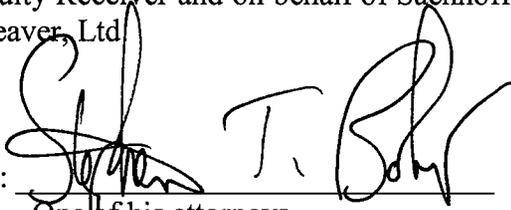
1. Allowing interim compensation in the amount of \$218,088.50 to the Receiver and Sachnoff & Weaver for services provided and in the amount of \$15,754.22 for expenses incurred and advanced from January 1, 2006 through March 31, 2006 and authorizing payment of those amounts from receivership funds as set forth below;

2. Authorizing the Receiver to use (a) the funds of the Tech Traders' estate to pay for the fees and expenses for the services relating to Tech Traders, which total \$ 207,536.82; (b) the funds held for Shasta to pay for the fees and expenses for the work relating to Shasta, which total \$26,305.90; and (c) the funds held in reserve for Universe to pay the fees and expenses for the work relating to Universe, which total \$7,683.00; and

3. Providing the Receiver and Sachnoff & Weaver such further relief as may be appropriate in these circumstances.

Respectfully submitted,

STEPHEN T. BOBO,  
Equity Receiver and on behalf of Sachnoff &  
Weaver, Ltd.

By:   
One of his attorneys

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Bina Sanghavi  
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