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**In The United States District Court
For The District Of New Jersey
Camden Vicinage**

Commodity Futures Trading Commission,
Plaintiff,

vs.

Equity Financial Group LLC,
Tech Traders, Inc., Tech Traders, Ltd.,
Magnum Investments, Ltd., Magnum
Capital Investments, Ltd., Vincent J. Firth,
Robert W. Shimer, Coyt E. Murray, and
J. Vernon Abernethy,
Defendants.

Hon. Robert B. Kugler
District Court Judge

Hon. Ann Marie Donio
Magistrate

**Civil Action No: 04-1512
(RBK)**

**MOTION DATE:
June 2, 2006**

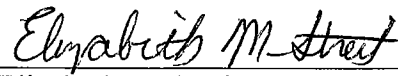
**CFTC's RESPONSE TO DEFENDANT SHIMER'S STATEMENT OF UNDISPUTED
FACTS IN OPPOSITION TO THE CFTC'S MOTION FOR PARTIAL SUMMARY
JUDGMENT AGAINST EQUITY FINANCIAL GROUP LLC, ROBERT W. SHIMER
AND VINCENT J. FIRTH**

Plaintiff Commodity Futures Trading Commission (the “Commission”) submits the following response to Defendant Shimer’s Statement of Undisputed Facts.

1. The Commission objects to Shimer’s “material facts” ¶¶ 1 through 3. These are erroneous statements of law, not fact, and should be disregarded by the Court.
2. The Commission does not dispute Shimer’s undisputed facts ¶¶ 4 through 6.
3. The Commission does not dispute Shimer’s undisputed fact ¶ 7 that Abernethy forwarded rate of return numbers to Teague. However, the Commission does dispute that Abernethy generated these numbers.
4. The Commission does not dispute Shimer’s undisputed facts ¶¶ 8 through 11.
5. The Commission objects to Shimer’s undisputed fact ¶ 12. He has presented no evidence that “numerous separate entities” placed funds with Tech Traders in reliance on the rate of return numbers reported by Defendant Abernethy. However, this disputed fact is not material to the resolution of the Commission’s pending Motion for Partial Summary Judgment.
6. The Commission does not dispute Shimer’s undisputed fact ¶ 13.
7. As for Shimer undisputed fact ¶ 14, the funds deposited by Shasta investors into Shimer’s attorney escrow account remained in the account anywhere from 0 to 14 days. *See* Second Declaration Of Investigator Joy McCormack In Support Of CFTC’s Motion For Partial Summary Judgment at ¶ 18.
8. The Commission does not dispute Shimer’s undisputed facts 15 through 17.

Date: May 25, 2006

Respectfully submitted,



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