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May 5, 2006

William T. Walsh, Clerk
United States District Court
District of New Jersey
Mitchell H. Cohen United States Courthouse
1 John F. Gerry Plaza
Camden, NJ 08101

RE: Commodity Futures Trading Commission v. Equity Financial Group LLC, et al
Civil Action No.: 04-1512
Our File No.: 8879-1

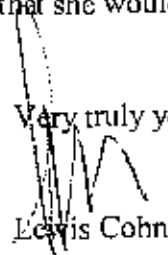
Dear Mr. Walsh:

We are New Jersey counsel for defendants Equity Financial Group LLC, in this action.

Please find enclosed an original and three copies of a declaration in opposition to the motion of a partial summary judgment filed by plaintiff Commodity Futures Trading Commission which is returnable May 19, 2006. We are also enclosing a CD ROM of this document to facilitate the electronic filing of the enclosed paper. We are simultaneously filing this document electronically with the Court. Please mark the enclosed documents as "filed" and return a filed copy to our office in the enclosed self-addressed stamped envelope.

Although this declaration is being submitted for filing out-of-time, Samuel F. Abernethy, Esq., New York counsel for Equity Financial Group, LLC has consulted with Elizabeth M. Streit, Lead Trial Attorney for plaintiff who has indicated that she would serve no objections to the out-of-time filing of this document. Thank you.

Very truly yours,


Lewis Cohn

LC:km
Enclosure(s)

William T. Walsh, Clerk

May 5, 2006

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cc: Honorable Robert Kugler, U.S.D.J. (w/encl.)
J. Vernon Abernethy (w/encl.)
Vincent J. Firth (w/encl.)
Glenn E. Petillo, Esq. (w/encl.)
Robert W. Shimer (w/encl.)

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

-----X		:
COMMODITY FUTURES TRADING		:
COMMISSION,		:
	Plaintiff,	:
		:
	-against-	:
		:
EQUITY FINANCIAL GROUP, LLC, et.,		:
	Defendants.	:
		:
-----X		:

Civil No. 04-1512 (RBK)

DECLARATION OF
SAMUEL F. ABERNETHY


SAMUEL F. ABERNETHY declares as follows:

- I am a member of the bar of the State of New York and a member of the firm of Menaker & Herrmann LLP, counsel, along with Witman, Staudtmauer & Michaels, P.C., to defendant Equity Financial Group, LLC ("Equity Financial"). I am also admitted *pro hac vice* in this action. I make this declaration in opposition to plaintiff's motion for partial summary judgment against defendants Equity Financial Group LLC, Robert W. Shimer, and Vincent J. Firth.
- Since all of Equity Financial activities were conducted by defendants Firth and Shimer, any liability sought to be imposed upon it herein derives from the actions of Messrs. Firth and Shimer, who were instrumental in the decision making and operations of the company
- I have read defendant Robert W. Shimer's response to plaintiff's motion for partial summary judgment. Equity Financial joins in the opposition submitted by Mr. Shimer insofar as the motion seeks to impose liability on Equity Financial and insofar as Mr. Shimer's arguments apply to Equity Financial.

4. I have been advised by Mr. Firth that Equity Financial is dormant and without assets.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
May 4, 2006



Samuel F. Avernethy