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

COMMODITY FUTURES TRADING)
COMMISSION,)

Plaintiff,)

vs.)

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

Defendants.)

Civil Action No.: 04CV 1512

Honorable Robert B. Kugler

Hearing Date: June 2, 2006

**EQUITY RECEIVER’S REPLY IN SUPPORT OF
MOTION TO DISALLOW CERTAIN UNIVERSE INVESTOR CLAIMS**

For his reply to Vico, Inc.’s Objection and Opposition to his Motion to Disallow Certain Investor Claims, Stephen T. Bobo, as Equity Receiver (the “**Receiver**”) for Defendants Tech Traders, Inc., Tech Traders, Ltd. and others, by his attorneys, states:

The Court should treat the Receiver’s motion as unopposed because Vico’s purported opposition was filed in contravention of fundamental local rules of civil procedure and because it fails to set forth any substantive basis for challenging the Receiver’s motion.

1. Vico's Filing Was Not Signed By A Member Of The Bar Of This Court.

Local Civil Rule 11.1 requires that “the attorney of record who is a member of the bar of this Court shall personally sign all papers submitted to the Court or filed with the Clerk” and, under Local Rule 101.1(b), only attorneys licensed to practice by the Supreme Court of New Jersey may be admitted to the District of New Jersey. Vico's filing does not appear to be signed by an attorney admitted to practice in New Jersey. He apparently does not have a New Jersey office or a New Jersey identification number. He references only his Nevada bar number and there is no indication that he has affiliated himself with New Jersey counsel and/or is seeking admission *pro hac vice*. This Court should refuse to consider Vico's filing on these grounds alone.

2. Vico's Filing Was Not Timely Filed. Under Local Rule 7.1 (d)(2), papers in opposition to a motion must be filed and served no later than 14 days prior to the original motion date. Under Local Rule 7.1 (d)(7), the Court may reject any filing for failing to comply with this requirement. In this case, the Court was scheduled to hear the motion on June 2, 2006, making any opposition due on May 19, 2006. The Receiver provided all interested parties with a notice of his motion, which informed parties of this May 19th filing deadline. While its filing shows a May 19 date, Vico neither filed nor served the filing until May 25. The Court therefore should reject Vico's filing as untimely.

3. The Factual Assertions In Vico's Filing Are Not Founded On Personal Knowledge. Under Local Rule 7.2, the Court may disregard submissions that are not founded on personal knowledge. Vico's filing does not challenge the Receiver's motion on legal grounds but rather simply makes unsubstantiated and conclusory factual assertions that do not appear to be based on anyone's personal knowledge even though the cover page mentions nonexistent “Exhibits.” The Court therefore should decline to consider these unsubstantiated and conclusory

factual assertions. *See In Steele v. Depuy Orthopaedics, Inc.*, 295 F. Supp. 2d 439, 446 (D.N.J. 2003) (Kugler, J.) (declining to consider affidavits because they “contain[ed] unsubstantiated conclusory statements”).

4. The Factual Assertions In Vico’s Filing, Even If Credited, Do Not Alter The Fact That Vico, Pinnacle And Trinidad Shared Common Control And Commingled Funds.

Vico’s protestations that neither Pinnacle nor Trinidad has “any ownership interest or control of Vico” and “Vico has never owned, controlled or held any legal or equitable interest in either Pinnacle Trust or Trinidad Trust” have no bearing on the money trail clearly explained in Ms. McCormack’s Declaration at paragraphs 5 and 6. The \$99,200 that Vico sent to Universe came from an account in the name of Asset Protection Group at US Bank six days after Pinnacle deposited almost the exact amount of funds into the same account in the name of Asset Protection Group at US Bank with funds received from Universe. These facts alone justify aggregation of Vico’s claim with Pinnacle’s investments and withdrawals for distribution purposes. And Vico does not dispute the assertion in Ms. McCormack’s Declaration at paragraph 8 that Pinnacle owns Trinidad. This ownership further justifies aggregation of Vico’s claim with the investments and withdrawals of Pinnacle *and* Trinidad for distribution purposes.

5. Vico Has Failed To Identify The Ultimate Beneficiaries Of Any Potential Distribution To Vico. Vico has not even addressed the Receiver second, independent other basis for objecting to Vico’s claim. Consistent with this Court’s Order dated October 27, 2005, Vico is not entitled to a distribution because it has failed to identify the ultimate beneficiaries of any such potential distribution to Vico.

For the foregoing reasons, the Receiver respectfully requests that the Court enter an order adopting the Receiver's proposed treatment of Vico's claim.

DATED: June 1, 2006

Respectfully submitted,

STEPHEN T. BOBO

Equity Receiver

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