

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

RECEIVED-CLERK
U.S. DISTRICT COURT
2005 MAY -2 A 11:38

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

Vs.

Civil Action No.: 04CV 1512

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

Honorable Robert B. Kugler
District Court Judge

Honorable Ann Marie Donio
Magistrate

OBJECTION TO METHOD OF INTERIM DISTRIBUTION

I respectfully object to the Receiver's method of a pro-rata interim distribution of receivership funds. The basis for my objection is the fundamental issue of classifying the Defendant's investment vehicle as a "classic Ponzi scheme" as the Receiver has maintained. In my opinion, Shasta Capital Associates was not a classic Ponzi scheme at all.

The nature of a classic Ponzi scheme is to repay early investors with the money received from a later investor and basically have no business practice whatsoever. For example, Charles Ponzi took in approximately \$15 million with the lure of doubling an investor's money in 90 days by use of buying foreign postage stamps and redeeming them in the United States. However, Ponzi only purchased \$30 worth of postage stamps from the \$15 million that he took in. He therefore had no legitimate business practice and did not follow through with his investment vehicle. He simply began to steal the money and use it for himself.

To the contrary, the money invested with Shasta Capital Associates was indeed used for trading futures contracts. That is the precise reason individuals invested in the vehicle to begin with. It was made clear to all who invested in Shasta Capital Associates that their money would be used to trade futures contracts and there is obvious inherent risk in making such an investment. However, one should expect that when an investment is made in futures contracts and the money is actually traded, each individual would maintain and ultimately receive their net position, for good or bad. Therefore, a pro-rata distribution is not appropriate. The case law that has been cited refuting the use of

“tracing” has all been tied to past Ponzi and Pyramid schemes. However, if the court were to decide that Shasta Capital Associates was not actually a Ponzi scheme, should tracing not be reconsidered?

The Receiver details Approximate Uses of Funds by Tech Traders in his report and it does not appear that any substantial funds were used for any other purpose than was set forth in the Shasta Private Placement Memoranda. It is more a matter of misreporting the results, this does not equate to a Ponzi scheme. There have been countless large U.S. corporations that have misreported their results over the past several years. Because of these overstated results, investors bought shares in their companies. When the fraud was uncovered, all investors still held their net position. The outstanding market capitalization was not simply returned to investors on a pro-rata basis. The case of Shasta Capital Associates should be no different. Investors chose to invest with Shasta as a conduit to trade futures contracts. Those funds were indeed used to trade futures contracts as specified. Therefore, all investors should be entitled to their net position.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'R. Scott Batchelar', written over a horizontal line.

R. Scott Batchelar



Mr. R. S. Batchelder
234 Kenrick St
Newton, MA 02458



CLERK OF THE COURT
UPPER STAIRS DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
MITCHELL H. COHEN FEDERAL BUILDING
1 JOHN F. GERRY PLAZA
CAMDEN, NJ 08101

05/02/1571

