

Matthew H. Adler (MA-4720)  
Jeffrey A. Carr (JC-1103)  
PEPPER HAMILTON LLP  
(A Pennsylvania Limited Liability Partnership)  
301 Carnegie Center  
Suite 400  
Princeton, NJ 08543-5276  
(609) 452-0808

*Counsel for Stephen T. Bobo,  
Equity Receiver*

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

COMMODITY FUTURES TRADING	)	
COMMISSION,	)	
	)	No.: 04-cv-1512 (RBK)
Plaintiff,	)	
	)	
vs.	)	
	)	
EQUITY FINANCIAL GROUP, LLC,	)	
TECH TRADERS, INC., TECH	)	
TRADERS, LTD., MAGNUM	)	
INVESTMENTS, LTD., MAGNUM	)	
CAPITAL INVESTMENTS, LTD.,	)	
VINCENT J. FIRTH, ROBERT W.	)	Hearing Date: May 18, 2007
SHIMER, COYT E. MURRAY, and	)	
J. VERNON ABERNETHY,	)	
	)	
Defendants.	)	

**MEMORANDUM IN SUPPORT OF EQUITY RECEIVER’S MOTION FOR  
APPROVAL OF SETTLEMENT AGREEMENT WITH DONALD A. DIENNO**

Stephen T. Bobo (the “Receiver”), the Equity Receiver for Defendants Equity Financial Group, LLC, Tech Traders, Inc., Tech Traders, Ltd., Magnum Investments, Ltd., Magnum Capital Investments, Ltd., Robert W. Shimer and Vincent J. Firth (the “Receivership Defendants”), requests authority to settle the receivership estate’s disputes with Dr. Donald A. DiIenno (“DiIenno”). In support of his motion, the Receiver states as follows:

1. On April 1, 2004, the Commodity Futures Trading Commission (the “CFTC”) filed a complaint in the United States District Court for the District of New Jersey (the “Court”), entitled *Commodity Futures Trading Commission v. Equity Financial Group, LLC., et al.*, Civil Action No. 04 CV 1512 (the “CFTC Litigation”), against Tech Traders, Inc. and Tech Traders, Ltd. (collectively, “Tech Traders”), along with other Receivership Defendants.

2. On the day the CFTC initiated the CFTC Litigation, the Court entered a Statutory Restraining Order and Order Appointing Stephen T. Bobo as Receiver for the purpose of taking “exclusive custody, control and possession of all customer funds and property and other assets traceable to customers in the possession of, or under the control of Shimer or Tech Traders Inc.” (See 4/1/2004 Ct. Order at 4.)

3. The Court also entered an order authorizing the Receiver to carry out an investor claim process in August 2004. The Receiver carried out this process and ultimately presented a proposed plan for distributing receivership assets to investors to the Court for its approval. The Court thereafter approved the Receiver’s proposed distribution plan (as modified) in October 2005.

4. Several Tech Traders investors (known as Tier 1 investors) failed to participate in the investor claim process, including an entity known as Bally Lines, Ltd. (“Bally Lines”). According to Tech Traders, Inc.’s bank records, Bally Lines invested a total of \$1,458,000 with Tech Traders, Inc. and received \$485,000 in withdrawals prior to the Court’s freeze order on April 1, 2004. (See Affidavit of Stephen T. Bobo in Support of Equity Receiver’s Motion for Approval of Settlement Agreement with Donald A. DiIenno (“Bobo Aff.”) at ¶ 4.) DiIenno was one of several investors who invested funds with Bally Lines. (See *id.*) DiIenno invested a total

of \$790,000 in his account with Bally Lines for the purpose of having Bally Lines invest those funds with Tech Traders, Inc. (*See id.*)

5. By order entered on January 4, 2007, (the “January 4, 2007 Order”) the Court disallowed Bally Lines’ claim in its entirety along with the claims of certain other Tier 1 investors who failed to participate in the investor claim process. As a consequence of the disallowance of Bally Lines’ claim, DiIenno is unable to receive a distribution on any portion of his \$790,000 investment with Bally Lines.

6. DiIenno has repeatedly petitioned the Court requesting that his claim be treated as a Tier 1 claim for purposes of the investor claim process, but without success. This is based, in part, on the fact that DiIenno sent \$400,000 of his investment directly to Tech Traders following his visit with Coyt Murray at the Tech Traders’ offices in Gastonia, North Carolina to learn more about the Tech Traders’ trading system. (*See id.* at ¶ 6.)

7. DiIenno’s counsel recently sought admission pro hac vice before this Court in order to seek to modify or vacate the court’s January 4, 2007 Order disallowing the Bally Lines claim, at least as far as the order pertains to him. Among other things, DiIenno contends that he received no notice of the entry of the Order despite having filed a pleading on or about November 27, 2006 concerning his claim position and his request for separate treatment, and therefore he was precluded from filing a timely appeal. In addition, he contends that the Court gave no apparent consideration to his pleading.

8. Although the Receiver believes that DiIenno’s chances of either having the order vacated or having his claim ultimately allowed individually as a Tier 1 investor is remote, litigation over these issues will likely cause the receivership estate to incur significant legal fees and costs. Of equal importance, litigation over these issues is also likely to delay resolution of a final

distribution to investors and the winding up of the estate, particularly if an appeal were taken. Therefore, the Receiver is motivated to reach an overall resolution of DiIenno's issues.

9. The Receiver seeks authority to enter into the Settlement Agreement, attached as Exhibit A to the Receiver's Affidavit, to resolve any claims DiIenno has or may have, either directly against Tech Traders or its receivership estate or derivatively through Bally Lines, in connection with DiIenno's investment in the amount of \$790,000 with Bally Lines. The terms of the settlement agreement are as follows: payment of \$30,000 to DiIenno in full satisfaction of any claim he may have against or involving Tech Traders, either directly or through Bally Lines, plus a general release of Tech Traders, the receivership estate and the Receiver.

10. The Receiver believes this settlement is fair and reasonable for the receivership estate for a number of reasons. The settlement minimizes the cost to the estate of what could be a protracted dispute over DiIenno's claim. It also removes what could be a major impediment to making a final distribution and closing up the estate, particularly if a threatened appeal were taken. DiIenno has repeatedly pointed out how he is in a unique position having sent most of his funds directly to Tech Traders after dealing directly with Coyt Murray. In addition, the disallowance of Bally Lines' claim resulted from the failure of Bally Lines to respond to the objection to its claim and had nothing to do with the lack of documentation of DiIenno's investment.

11. DiIenno never received back any portion of his \$790,000 investment. The proposed settlement payment to DiIenno is less than he would have received as his proportionate share of the interim distribution that Bally Lines would have been entitled to receive if its claim had been allowed, after even taking into account the significant withdrawals that Bally Lines had received from its Tech Traders account. Therefore, this settlement, which involves a payment to DiIenno

of about 3.8% of the total amount he invested, is not unfair to other Tier 1 investors with Tech Traders.

12. The Receiver has discussed the settlement with the CFTC's attorney, who indicated that she had no objection to the proposed terms.

WHEREFORE, the Receiver requests the court to enter an order authorizing him to resolve the receivership estate's disputes with DiEnno on the terms set forth above and such other relief as is appropriate in the circumstances.

DATED: April 24, 2007

Respectfully submitted,  
STEPHEN T. BOBO,  
Equity Receiver

Stephen T. Bobo  
Raven Moore  
Reed Smith LLP  
10 South Wacker Drive, Suite 4000  
Chicago, IL 60606

By: s/ Jeffrey A. Carr  
One of his attorneys

Matthew H. Adler (MA-4720)  
Jeffrey A. Carr (JC-1103)  
Pepper Hamilton LLP  
301 Carnegie Center, Suite 400  
Princeton, NJ 08543