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PB-5422

**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)**

Non - Jury
**PROPOSED AMENDMENT
TO THE JOINT FINAL
PRETRIAL ORDER**

APPEARANCES: Elizabeth M. Streit
Lead Trial Attorney

Jennifer S. Diamond
Trial Attorney

for Plaintiff Commodity Futures Trading Commission

Robert W. Shimer
Defendant *pro se*

Vincent J. Firth
Defendant *pro se*

Paul Hellegers
Menaker & Herrmann LLP

for Defendant Equity Financial Group LLC

I. Introduction

Pursuant to the Joint Pretrial Conference on June 5, 2007 and Magistrate Donio's June 8, 2007 Order (Docket Doc No. 510), the Parties hereby submit the following Amendment to the Joint Final Pretrial Order:

II. Amendments to Part V: Witnesses and Summary of Testimony of the filed Joint Pretrial Order

A. Defendants Firth and Shimer's Objections to Plaintiff's Deposition Designations

Defendants Vincent Firth ("Firth") and Robert Shimer ("Shimer") withdraw their objections to Plaintiff's witness testimony by deposition designation for Elaine Teaguc, Nicholas Stevenson, and Susan Lee as described in Part V of the Joint Final Pretrial Order filed on June 5, 2007 ("Joint File Pretrial Order") and submit separate objections to particular designations attached hereto. Defendants Firth and Shimer agree to withdraw their prior objections in the form of Defendant Shimer's May 17, 2007 letter and agree to strike that letter and their Part V

written objections from the record. Defendant Equity Financial Group, LLC ("Equity") has no objection to striking this letter.

B. Defendants Firth and Shimer's Deposition Designations

In addition to the deposition designations provided in the Joint Final Pretrial Order, Defendants Firth and Shimer submit additional deposition designations for Elaine Teague, Nicholas Stevenson, and Susan Lee, marked as Shimer Exhibits 1052-1054.

Without waiving any prior submitted designations, Plaintiff submits additional counter designations to Defendants Firth and Shimer's additional deposition designations described above, marked as Plaintiff's Exhibits 1166-1168. Plaintiff has also included Plaintiff's Exhibits 560 and 563, which were discussed in new designations included in this amendment to the Pretrial Order. Defendant Equity has no additional objections or designations.

III. Amendments to Part VII: Exhibits of the Joint Pretrial Order

A. Plaintiff's Supplemental Trial Exhibit List

1. In addition to the exhibit list provided in Part VII of the Joint Final Pretrial Order, Plaintiff intends to introduce the additional exhibits listed in Plaintiff's Supplemental Trial Exhibit List, a separate document, incorporated herein.

2. Defendant Equity has no objections to Plaintiff's additional exhibits.

3. Defendants Firth and Shimer have no objections to Plaintiff's additional exhibits.

4. Defendants Firth and Shimer reserve the right to use any of Plaintiff's exhibits that are admitted into evidence.

B. Defendants Firth and Shimer's Supplemental Trial Exhibit List

1. Defendants Shimer and Firth intend to introduce additional exhibits into evidence as listed in the separate Defendants Firth and Shimer's Supplemental Trial Exhibit List, attached hereto.

2. In addition to the objections made in Part VII in the Joint Final Pretrial Order, and without waiving those prior objections, Plaintiff also objects to certain of Defendant Firth and Shimer's deposition designations, as set forth in Plaintiff's Objections to Defendants' Additional Teaguc, Stevenson and Lee Designations, separate documents, incorporated herein. Plaintiff also objects to the use of exhibits not listed in Defendants case in chief.

3. Plaintiff reserves the right to use any of Defendants' Exhibits that are admitted into evidence.

CONCLUDING CERTIFICATION

We hereby certify by the affixing of our signature to this Amendment to the Joint Final Pretrial Order that it reflects the efforts of all counsel and *pro se* litigants and that we have carefully and completely reviewed all parts of this Order prior to its submission to the court. Further, it is acknowledged that amendments to this Amendment to the Joint Final Pretrial Order will not be permitted except where the court determines that manifest injustice would result if the amendment is not allowed.

Attorney(s) for Plaintiff:

Attorney for Defendant or Defendant:

Elizabeth M. ...
Jennifer S. Diamond

Amendment to
Entry of the foregoing Joint Pretrial Order is hereby APPROVED this 23rd day
of July, 2007.

Ann Marie Donio

Ann Marie Donio
UNITED STATES MAGISTRATE JUDGE
United States District Court
for the District of New Jersey

CONCLUDING CERTIFICATION

We hereby certify by the affixing of our signature to this Amendment to the Joint Final Pretrial Order that it reflects the efforts of all counsel and *pro se* litigants and that we have carefully and completely reviewed all parts of this Order prior to its submission to the court. Further, it is acknowledged that amendments to this Amendment to the Joint Final Pretrial Order will not be permitted except where the court determines that manifest injustice would result if the amendment is not allowed.

Attorney(s) for Plaintiff:

Attorney for Defendant or Defendant:

Vanessa L. ... pro se

Entry of the foregoing Joint Pretrial Order is hereby APPROVED this _____ day of _____, 2007.


Ann Marie Donio
UNITED STATES MAGISTRATE JUDGE
United States District Court
for the District of New Jersey

CONCLUDING CERTIFICATION

We hereby certify by the affixing of our signature to this Amendment to the Joint Final Pretrial Order that it reflects the efforts of all counsel and *pro se* litigants and that we have carefully and completely reviewed all parts of this Order prior to its submission to the court. Further, it is acknowledged that amendments to this Amendment to the Joint Final Pretrial Order will not be permitted except where the court determines that manifest injustice would result if the amendment is not allowed.

Attorney(s) for Plaintiff:

Attorney for Defendant or Defendant:



Entry of the foregoing Joint Pretrial Order is hereby APPROVED this _____ day
of _____, 2007.

Ann Marie Donio
UNITED STATES MAGISTRATE JUDGE
United States District Court
for the District of New Jersey

CONCLUDING CERTIFICATION

We hereby certify by the affixing of our signature to this Amendment to the Joint Final Pretrial Order that it reflects the efforts of all counsel and *pro se* litigants and that we have carefully and completely reviewed all parts of this Order prior to its submission to the court. Further, it is acknowledged that amendments to this Amendment to the Joint Final Pretrial Order will not be permitted except where the court determines that manifest injustice would result if the amendment is not allowed.

Attorney(s) for Plaintiff:

Attorney for Defendant or Defendant:

Scott J. Bentley for Equity Financial

Entry of the foregoing Joint Pretrial Order is hereby APPROVED this _____ day of _____, 2007.

Ann Marie Donio
UNITED STATES MAGISTRATE JUDGE
United States District Court
for the District of New Jersey

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Plaintiff,**

vs.

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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)

**Plaintiff's Objections to Defendants'
Deposition Excerpts of: Susan Lee**

Page		Line		Objection
Page(s):	44	Line(s):	8-18	hearsay
Page(s):	175	Line(s):	21-22	same as above.
Page(s):	176-178	Line(s):	1-22	same as above
Page(s):	179	Line(s):	1-13	same as above

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**Commodity Futures Trading Commission,
Plaintiff,**

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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)

**Plaintiff's Objections to Defendants'
Additional Deposition Excerpts of:
Nicholas Stevenson**

Page		Line		Objection
Page(s): 63		Line(s): 2-4		beyond the competence of witness to testify about other investors' reasons for investing
Page(s): 149		Line(s): 6-14		hearsay, relevance

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**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)

**Plaintiff's Objections to Defendants'
Additional Deposition Excerpts
of: Elaine Teague**

Plaintiff objects to any additional deposition designations by Defendant other than additional designations from pages 442-447 of Ms. Teague's deposition. As Defendant Shimer noted at the pretrial conference on June 5, 2007, Defendants had the entire transcript of Ms. Teague's deposition besides pages 442-447. (Plaintiff provided those pages to Defendants on June 7, 2007.) All witnesses were to be designated in the Final Pretrial Order. Under the Court's April 5, 2007 Scheduling Order (Docket Doc. 475), the Defendants were required to submit their portion of the pretrial order to the Plaintiff by May 21, 2007. Defendants submitted their portion of the Order to Plaintiff on May 22. This submission included extensive designations from the deposition of Ms. Teague. Defendant should not be allowed to have "second bite of the apple" by submitting more designations from this deposition beyond the six pages Defendant Shimer represented he did not already have. Without waiving this general objection to Defendants' designations, Plaintiff has the following additional specific objections if these additional designations of Defendants are allowed:

Page		Line		Objection
Page(s):	486	Line(s):	-25	line incomprehensible by itself
Page(s):	701	Line(s):	1-12	no question included, incomplete answer, relevance

U.S. CFTC v. EQUITY FINANCIAL GROUP, ET AL.

PLAINTIFF'S TRIAL EXHIBIT LIST

PL EX. NO.	DATE(S) OF DOC(S)	DESCRIPTION	Offered	Admitted	Refused	Withdrawn	BATES / PAGES
560	01/18/04	Email: R. Shimer to V. Firth (cc'd to S. Lee) re: proposed letter to members and upcoming meeting with CFTC					AP 0051-0053
563	01/18/04	Email: S. Lee to G. Aronow re: proposed letter to members					AP 0066
1166	01/23/06	Plaintiff's Additional Counter Designation of Deposition Excerpts for Susan G. Lee.					
1167	12/21/05, 01/12-14/2006	Plaintiff's Additional Counter Designation of Deposition Excerpts for Elaine Teague					
1168	02/28/06	Plaintiff's Counter Designation of Deposition Excerpts for Nicholas Stevenson					

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(609) 714-1981

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

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

vs.

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

Defendants.

Hon Robert B. Kugler
District Court Judge

Hon. Ann Marie Donio
Magistrate

Civil Action No. 04-1512

Defendants' Objections to
Plaintiff's Supplemental Deposition
Excerpts: Nick Stevenson

Legend to Objection designations:

F= Foundation; C= Characterization; S= Speculation; N= Non Responsive answer to Question;

Page	Line	Objection
Page(s) 67 Page(s) 68	Line(s)17-22 Line(s) 5-11	N after "no" F, S, C. Witness is not qualified to express an opinion about was or is not "typical" for the hedge fund industry.
Page(s) 145	Line(s) 17-18	F, C, To the extent that Plaintiff offers this testimony as a legal conclusion about the status of the entity Shasta or the witness's opinion about the legal status of the entity Shasta the witness is not qualified to express a legal conclusion or opinion about the "pool" or non "pool" status of the entity Shasta.

**CFTC v. EQUITY FINANCIAL GROUP, LLC ET AL
SHIMER AND FIRTH SUPPLEMENTAL TRIAL EXHIBIT LIST**

Exhibit No. PAGES	DATE OF DOCS	DESCRIPTION	
1052	12/21/05; 1/12-1/14/06	Excerpts of Elaine Teague Deposition Testimony	8
1053	2/28/06	Excerpts of Nick Stevenson Deposition Testimony	18
1054	1/23/06	Excerpts of Susan Lee Deposition Testimony	30

CERTIFICATE OF SERVICE

The undersigned non-attorney, Anne Smith, does hereby certify that on June 26, 2007 she caused a true and correct copy of the foregoing **Proposed Amendment To The Joint Final Pretrial Order** to be served upon the following persons via first class mail:

On behalf of Equity Financial Group,

Samuel Abernethy
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Defendant Robert W. Shimer, pro se

Robert W. Shimer
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Defendant Vincent J. Firth, pro se

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Anne Smith, Secretary