

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

**REPLY OF STEPHEN T. BOBO, EQUITY RECEIVER, IN SUPPORT OF MOTION  
FOR DETERMINATION OF PENDING OBJECTION**

Stephen T. Bobo (the “Receiver”), Equity Receiver of 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”), files this reply in support of his motion for the determination of the pending objections of the Receiver and the CFTC to the disputed claim of Alison E. Shimer (“Alison”).

**Introduction**

In a last-ditch effort to ensure that she further profits at the expense of Shasta’s innocent investors, Alison opposes the Receiver’s motion. She requests that the Court award her an allowed claim of \$150,000, which would be entitled to a distribution of approximately

\$103,950.<sup>1</sup> As Alison tells it, she (and she alone) invested \$150,000 with Shasta Capital Associates, LLC (“Shasta”) and is therefore entitled to a pro rata share of the receivership assets. Indeed, she goes to great lengths to attempt to convince the Court that she, like all the other Shasta investors, invested her funds in “good faith” as a “legitimate member” of Shasta.<sup>2</sup> But Alison offers nothing more than empty rhetoric. In eight pages, she fails to provide any evidentiary support for her litany of “facts.” Even if taken as true, these unsupported assertions of “fact” do nothing to advance her case.

### **The Undisputed Facts**

Instead, the undisputed facts before the Court, which are supported by evidence offered by the Receiver and the CFTC *and which go unchallenged by Alison*, require that Alison’s claim be disallowed in its entirety. These facts are as follows:

- Robert Shimer (“Robert”), Alison’s husband and a Defendant in this case, transferred \$150,000 from a joint bank account that he shared with his wife to Shasta’s Citibank account;
- This \$150,000 was the direct proceeds of a contemporaneous loan secured by a first mortgage on real estate that Robert inherited from his father;

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<sup>1</sup> Although it may go without saying, any receivership assets distributed to Alison will dilute the total receivership assets available to return to Shasta’s outside investors.

<sup>2</sup> In contradiction to her assertion that she invested in “good faith,” Alison’s response demonstrates her extensive knowledge about the inner workings of her husband’s entities. From describing the work her husband performed on the “Shasta/Tech project” to revisiting the Court’s rulings against him, her admissions show remarkable command of the details of this case and her husband’s conduct and are inconsistent with her claim to have acted in good faith. She should not therefore be allowed to masquerade as the equivalent of an “innocent spouse.” (By contrast, in analogous circumstances under the Internal Revenue Code, an “innocent spouse” may be relieved from liability for income tax penalties only if, among other things, she did not know and had no reason to know of her husband’s substantial understatement of income. *See* 26 U.S.C. § 6015(b).)

- By the time the \$150,000 investment was made from the Shimers' joint bank account, that same account had received over \$210,000 from bank accounts at Patriot Bank in the names of the entities Edgar Holding Group ("Edgar") and Allied International ("Allied"), both controlled by Robert and which, in turn, had received significant funds from Tech Traders; and
- Alison personally received at least \$12,000 from Shasta's managing member, Equity Financial Group, LLC ("Equity") in 2003, apparently for services she provided in connection with Shasta.

While Alison attempts to muddy the waters with recitals of various other "facts" (none of which are either supported by any form of evidence or the least bit relevant to the Court's resolution of this motion), she does not dispute the facts outlined above. These undisputed facts establish that Robert arranged for the proceeds from a mortgage loan on property that he inherited from his father to be transferred to Shasta as "Alison's investment." "Alison's investment" is therefore, in substance, her husband's investment. The Court should not allow the supposed form of this transaction to triumph over substance where the result would adversely affect third party investors.<sup>3</sup>

In light of these undisputed facts, Alison's claim should be denied in its entirety.

**Alison's "Facts" Fail To Advance Her Position**

Even if the Court considers the unsupported "facts" littered throughout her opposition, such "facts" do not advance Alison's position. For example, assuming the Court takes as true

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<sup>3</sup> At most, Alison's contentions could entitle her to a claim for one-half of the investment (or \$75,000) since the funds came from the joint account she shared with Robert. Although the Receiver opposes such a result, the effect would be that Alison would receive a pro rata distribution on the \$75,000 amount, but such distribution should be subject to setoff for recovery of the \$12,000 in "compensation" she received from Equity for her efforts in furtherance of its illegal activities.

Alison's statement that she became a joint title holder of Robert's inherited property, this does not negate the fact that the \$150,000 investment with Shasta came from a first mortgage on a property that Robert (not Alison) inherited from his father. Robert allegedly gifted Alison an interest in the property and thereafter caused the mortgage proceeds to be transferred to Shasta.

If the Court also accepts the contention that Robert and Alison's joint account received over \$222,000 from the various Robert Shimer-created entities (Edgar, Allied and Equity) as compensation for Robert's "legal work" and Alison's "office support," this does not negate the fact that Robert and Alison actually collected these funds that originated in connection with the Tech Traders Ponzi scheme. Alison's attempt to justify her and her husband's receipt of these funds in return for the supposed blood, sweat and tears they invested in Robert's entities is shameless. *Robert's legal work and Alison's office support enabled Robert to perpetrate what this Court has already determined was a fraud on investors.* As a result, neither Robert nor Alison was entitled to a single dollar from Edgar, Allied or Equity for their "work." Allowing Alison to recover any of the receivership assets (much less the hefty sum of \$105,000), when she and Robert have already wrongfully profited at the investors' expense, would be unfair and inequitable to investors.

Alison also makes much of the "fact" that she was the primary account holder on the joint account (apparently because her name appeared first on the bank statement). This means nothing. What *does* mean something is the evidence showing that this same joint account regularly received substantial amounts of funds derived directly or indirectly from Tech Traders, which represented innocent investors' funds, through April 2004 (when the Court entered a freeze order on this account and others). Even if the truth of Alison's contention that the account

was hers and not Robert's is assumed, the resulting entanglement of "her" account with the investment fraud directly contradicts her claim of being a "good faith" investor.

**Alison's Requested Relief Finds No Support Under the Law**

Based on the undisputed facts before the Court, Alison's claim should be promptly disallowed in its entirety. Alison, however, appears to be asking the Court to either (1) delay its ruling until her husband's appellate rights have been exhausted, or (2) automatically suspend enforcement of any adverse ruling against her until then. Neither request is appropriate.

First, the Court certainly has the authority to (and should) rule on all issues before it. There is no reason to refrain from ruling on the CFTC's and Receiver's objections to Alison's claim at this time. In fact, there is every reason to rule on them. With this motion, the Receiver seeks to resolve the only remaining investor claim issue so that the receivership assets can be fully distributed and the receivership estate closed.

Second, if the Court disallows Alison's claim, it should not sua sponte postpone the enforcement of such a ruling. To do so would adversely impact the innocent Shasta investors who are entitled to the funds that are reserved in connection with Alison's claim. Should Alison later desire to stay enforcement of an adverse ruling, she has the burden of filing an appropriate motion and attempting to satisfy the legal requirements for such relief.

If this motion cannot be resolved before the closure of the receivership estate, the Receiver could either continue to hold the \$103,950 subject to further order of the Court or deposit those funds into the registry of the Court, along with the attached Residual Distribution Schedule for Shasta. This schedule identifies the 59 investors who would be entitled to share in the funds reserved in connection with Alison's claim, as well as each investor's pro rata distribution percentage. The Receiver would also provide the Court with the last known

addresses for these investors. Either way the funds are to be held in the interim, if Alison's claim is disallowed, the funds could readily be distributed among those investors.

For these reasons, as well as all the other reasons provided by the Receiver in his motion and related pleadings objecting to Alison Shimer's claim and those contained in the objection filed by the CFTC, the Receiver requests that the Court consider the pending objections and disallow her claim in its entirety.

WHEREFORE, the Receiver respectfully requests that the Court enter an order (1) disallowing Alison Shimer's claim in its entirety, and (2) granting such other and further relief as may be appropriate in the circumstances.

Dated: November 30, 2007

Respectfully submitted,

STEPHEN T. BOBO, Equity Receiver for  
Equity Financial Group, LLC, Tech Traders,  
Inc., Tech Traders, Ltd., Magnum  
Investments, Ltd., Magnum Capital  
Investments, Ltd., Robert W. Shimer, and  
Vincent J. Firth

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**RESIDUAL DISTRIBUTION SCHEDULE FOR SHASTA**

CFTC v. Equity Financial Group, LLC et al., Case No. 04CV 1512

<b>Claim Number</b>	<b>Claimant</b>	<b>Funds Invested</b>	<b>Percentage of Total Allowed Claims Entitled to Residual Shasta Distribution</b>
1	A Wall Street Fund c/o Thomas Buckley	\$450,000.00	3.4134%
2	Aaron, Susan D. c/o Vanguard Fiduciary Trust Company	\$100,000.00	0.7585%
3	Acacia Fund	\$115,000.00	0.8723%
6	Batchelar, Robert Scott	\$150,000.00	1.1378%
7	BPU Banca Popolare Commercio, Industria International SA c/o Massimo Munzin	\$519,914.60	3.9437%
8	Broadtree Reinsurance Co. c/o John Evans	\$200,000.00	1.5171%
9	Bubonovich, Michael and Carol	\$150,000.00	1.1378%
10	Bubonovich, Michael c/o First Regional Bank	\$222,789.00	1.6899%
11	Castle Rock Company Limited c/o Nesrin Gunkut	\$499,968.00	3.7924%
12	Chambers, James F. and Iva N.	\$100,000.00	0.7585%

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14	Chen, Jun	\$100,000.00	0.7585%
91	Chicago Freight Car Leasing	\$300,000.00	2.2756%
15	Chung, Anita Li	\$150,000.00	1.1378%
17	Corcoran, Steve	\$200,000.00	1.5171%
18	Dent, Thomas c/o Vanguard Fiduciary Trust Company	\$225,000.00	1.7067%
19	Dent, Thomas W. and Barbara L.	\$150,000.00	1.1378%
21	Deverett, Howard	\$100,000.00	0.7585%
20	Deverett, Howard/Elexis Capital	\$300,000.00	2.2756%
23	Freda, Richard R. and Marcia c/o Charles Schwab & Co.	\$75,000.00	0.5689%
66	G.W. Bond Management, LLC	\$100,000.00	0.7585%



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25	Gambrell, Byron	\$60,000.00	0.4551%
28	Heller, William D. and Janet E.	\$100,000.00	0.7585%
90	Hirn, Ron c/o Ryan Allan Ltd.	\$100,000.00	0.7585%
29	Hirsch, Norman	\$205,000.00	1.5550%
33	Kalb, Austin	\$100,000.00	0.7585%
34	KCL Corporation c/o Faith and Cengiz Ozcelebi	\$200,482.00	1.5207%
35	Kraus, Stephen J. c/o Lincoln Trust Company	\$136,000.00	1.0316%
36	Leveque, Laurent	\$100,000.00	0.7585%
37	List, Thomas c/o Millennium Trust Company (the claim amount was reduced based upon a settlement with the Receiver)	\$38,000.00	0.2882%
38	Lopez, Alfred	\$25,000.00	0.1896%

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39	Loucks, Richard	\$95,000.00	0.7206%
40	Marrongelle, Dr. Jeffrey L. and Barbara	\$100,000.00	0.7585%
44	Mukerji, Jaydip	\$200,000.00	1.5171%
45	Northridge, G. Stephen	\$350,000.00	2.6549%
46	Omaha Boy, Nancy H. (the claim amount was reduced based upon a settlement with the Receiver)	\$45,000.00	0.3413%
53	Podila, Prasad	\$400,000.00	3.0341%
56	Richardson, Robert c/o Charles Schwab & Co.	\$48,000.00	0.3641%
57	Richardson, Theresa c/o Charles Schwab & Co.	\$28,000.00	0.2124%
59	Saner, Cheri	\$110,000.00	0.8344%
60	Saner, Dale c/o First Regional Bank	\$360,000.00	2.7307%

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61	Schulz, Diana c/o Millenium Trust Co.	\$22,794.15	0.1729%
62	Schulz, William C. and Diana	\$244,000.00	1.8508%
63	Schulz, William C. c/o Millenium Trust Co.	\$42,066.20	0.3191%
64	Seward, Charles	\$60,000.00	0.4551%
68	Shimer, Stephen D.	\$175,000.00	1.3274%
69	Shimer, Stephen/ SDS Defined Benefit Plan	\$50,000.00	0.3793%
77	Stevenson, Nicholas c/o Millennium Trust Company	\$285,939.16	2.1689%
78	Stevenson, Nicholas	\$250,000.00	1.8963%
79	Taleb, Nazih and May c/o Karim Taleb	\$100,000.00	0.7585%
80	Tate Family Limited Partnership	\$430,000.00	3.2617%

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81	Tate, Philip	\$300,000.00	2.2756%
82	Triester International Trading Corporation	\$200,000.00	1.5171%
83	Unger, Kathrin	\$238,000.00	1.8053%
84	Unger, Samuel S.	\$125,000.00	0.9482%
85	Universe Capital Appreciation, LLC c/o David Perkins	\$3,079,500.00	23.3589%
86	Valbracht, Walter William and Janice	\$170,000.00	1.2895%
87	Wood, Dennis c/o Charles Schwab & Co.	\$53,000.00	0.4020%
88	Zinman, Don	\$250,000.00	1.8963%
89	Zwyssig, Marco	\$99,965.00	0.7583%
<b>TOTALS</b>		<b>\$13,183,418.11</b>	<b>100.0000%</b>