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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Dr. Guenter Stetter,

10 Plaintiff,

11 vs.

12 Blackpool, LLC; John R. Bickley IV; and
13 Burton D. Gould,

14 Defendants.

No. CV-09-1071-PHX-DGC

ORDER

15 In February 2009, Dr. Guenter Stetter entered into an asset management
16 agreement with Blackpool, LLC, and gave Blackpool \$350,000 to invest on his behalf.
17 He claims that the money has been misspent by Blackpool and its managers, John
18 Bickley and Burton Gould. Stetter filed an amended complaint against Blackpool and its
19 managers on October 30, 2009, seeking damages in the amount of \$350,000 and asserting
20 claims for injunctive relief, breach of contract, breach of fiduciary duty, fraud, and
21 conversion. Doc. 74. Default judgment has been entered against Blackpool (Doc. 176),
22 and default has been entered against Bickley (Doc. 205).

23 Stetter has filed a motion for summary judgment. Doc. 211. Gould opposes the
24 motion. Doc. 214. Oral argument has not been requested. For reasons that follow, the
25 motion will be denied.

26 Stetter's motion does not comply with the Court's Local Rules of Civil Procedure.
27 In violation Local Rule 56.1(a), no separate statement of facts accompanies the
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1 memorandum of law (Doc. 211). Stetter filed a statement of facts more than five months
2 ago (Doc. 188), but that document was submitted in support of a different summary
3 judgment motion (Doc. 177). The Court “declines to search through the previously-filed
4 statement of facts to find relevant citations to the record given [Stetter’s] failure in both
5 of [his] memoranda to ‘include citations to the specific paragraph in the statement of facts
6 that supports factual assertions made in the memoranda,’ as mandated by [Local Rule]
7 56.1(e).” *Karlsson Group, Inc. v. Langley Farm Invs., LLC*, No. CV-07-0457-PHX-
8 PGR, 2008 WL 4183025, at *7 n.17 (D. Ariz. Sept. 8, 2008). More importantly, while
9 Stetter submitted an exhibit list (Doc. 193) in connection with his original summary
10 judgment motion and statement of facts, the exhibits themselves have not been made part
11 of the record.

12 As the party seeking summary judgment, Stetter bears the burden of not only
13 informing the Court of the basis for his motion, but also “identifying those portions of
14 [the record] which [he] believes demonstrate the absence of a genuine issue of material
15 fact.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986); Fed. R. Civ. P. 56(c)(1)
16 (a party asserting that a fact cannot be genuinely disputed must support the assertion by
17 “citing to particular parts of materials in the record”). Stetter has presented no evidence
18 “affirmatively demonstrate[ing] that no reasonable trier of fact could find other than for
19 [him].” *Soremekun v. Thrifty Payless, Inc.*, 509 F.3d 978, 984 (9th Cir. 2007). In short,
20 Stetter “has not met his summary judgment burden either in form or substance.”
21 *Imamoto v. Soc. Sec. Admin.*, No. 08-00137 JMS/KSC, 2008 WL 4657811, at *8
22 (D. Haw. Oct. 21, 2008); *see James v. Scribner*, No. 1:04-CV-05878-LJO-DLB P, 2008
23 WL 686402, at *1 (E.D. Cal. Mar. 13, 2008) (a plaintiff moving for summary judgment
24 bears the burden of “setting forth evidence establishing beyond controversy the elements
25 of his claims”).

26 This Circuit has made clear that a district court “need not examine the entire file
27 for evidence establishing [the absence of] a genuine issue of fact, where the evidence is
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1 not set forth in the [moving] papers with adequate references so that it could conveniently
2 be found.” *Carmen v. S.F. Unified Sch. Dist.*, 237 F.3d 1026, 1031 (9th Cir. 2001); *see*
3 *also Keenan v. Allan*, 91 F.3d 1275, 1279 (9th Cir. 1996) (the district court has no
4 responsibility on summary judgment to “scour the record in search of a genuine issue of
5 triable fact”). “As the Seventh Circuit observed in its now familiar maxim, ‘judges are
6 not like pigs, hunting for truffles buried in briefs.’” *Independent Towers of Wash. v.*
7 *Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (quoting *United States v. Dunkel*, 927
8 F.2d 955, 956 (7th Cir. 1991)).

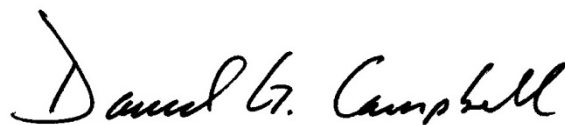
9 Stetter’s failure to file a properly supported summary judgment motion is not
10 excusable. His original motion was summarily denied because he failed to serve it on
11 Defendants and filed the statement of facts approximately six weeks after the motion and
12 the Court’s deadline for filing dispositive motions. *See* Docs. 179, 198. The Court
13 permitted Stetter to file a second motion for summary judgment, but explicitly warned
14 him that the motion “shall comply fully with Local Rule of Civil Procedure 56.1.” Doc.
15 206 at 1. Stetter has refused to follow that admonition. His summary judgment motion
16 will be denied.

17 **IT IS ORDERED:**

18 1. Plaintiff Guenter Stetter’s motion for summary judgment (Doc. 211) is
19 **denied.**

20 2. Plaintiff and Defendant Burton Gould’s joint final pretrial order is due by
21 **October 14, 2011.** The bench trial in this matter will begin on **October 27, 2011 at 9:00**
22 **a.m.** *See* Doc. 206.

23 Dated this 14th day of September, 2011.

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27 David G. Campbell
28 United States District Judge