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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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CARMELO ANTHONY, MELO
ENTERPRISES, INC., and CHOSEN
ONE PROPERTIES, LLC,

NO. CIV. 2:09-2272 WBS KJM

Plaintiffs,

ORDER RE: MOTION TO DISMISS

v.

LARRY HARMON aka LARRY W.
HARMON aka LAWRENCE HARMON,
HARMON & ASSOCIATES, P.A.,
HARMON-CASTILLO, LLP, FRANK
CASTILLO, KELLY RUNKLE, SORA
BARNES, KENNY CRUZ aka KENNETH
CRUZ, KC DEVELOPMENT, LLC,
VITALIS PARTNERS, LLC,
PROFESSIONAL PARTNERS, LLC,
and MCG PARTNERS,

Defendants.

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On November 25, 2009, the court dismissed the
Complaint of plaintiffs Carmelo Anthony, Melo Enterprises, Inc.,
and Chosen One Properties, LLC in order to afford plaintiffs an
opportunity to amend their Complaint in accordance with the

1 pleading standards recently announced in Ashcroft v. Iqbal, 129
2 S. Ct. 1937 (2009). (Docket No. 26.) Currently pending before
3 the court is defendant MCG Partners' ("MCG") motion to dismiss
4 the claims alleged against it under Federal Rules of Civil
5 Procedure 12(b)(6) and 9(b) for failure to state a claim upon
6 which relief can be granted. As plaintiffs' Complaint has been
7 dismissed, MCG's motion to dismiss it is moot. Once plaintiffs
8 file an amended complaint in accordance with the court's November
9 25, 2009 Order, MCG may file a motion to dismiss that amended
10 complaint if it so chooses.

11 IT IS THEREFORE ORDERED that MCG's motion to dismiss
12 plaintiffs' claims against MCG be, and the same hereby is, DENIED
13 AS MOOT, without prejudice to MCG's right to file a motion to
14 dismiss any amended complaint plaintiffs may subsequently file.

15 DATED: December 1, 2009

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18 WILLIAM B. SHUBB
19 UNITED STATES DISTRICT JUDGE
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