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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

No C 01-3376 VRW

ORDER

Plaintiff,

v

M & A WEST, INC, et al,

Defendants.

On July 23, 2009, plaintiff Securities and Exchange Commission moved for summary judgment and an injunction against defendant Zahra R Gilak. Doc #175. After Gilak did not respond to plaintiff's motion, the court ordered Gilak to show cause why plaintiff's motion for summary judgment should not be granted. Doc #178. Gilak has not submitted a response to the court's order and the deadline for doing so has passed.

1 Because Gilak was given opportunity to oppose the motion
2 and did not, plaintiff's motion for summary judgment and an
3 injunction against Gilak (Doc #175) is GRANTED.

4 The court further adopts the proposed order lodged by the
5 Commission. This order provides not only the detailed recitals of
6 the statutory and regulatory provisions that form the basis for
7 judgment against Gilak, but also sets the terms of injunctive
8 relief and civil monetary penalties to which the Commission is
9 entitled. To the extent that there is any inconsistency between
10 that order and this order, this order shall control.

11 Finally, a word on the amount of civil penalties that is
12 appropriate. The Commission seeks "third tier" penalties for
13 Gilak's conduct. The maximum third-tier penalty for actions taken
14 at the time of the conduct in this case is \$110,000, although this
15 may be imposed for each violation. See 15 USC § 77t(d); 15 USC §
16 78u(d)(3); 17 CFR § 201.1001 & tbl 1. Beyond stating that it seeks
17 third-tier penalties, the Commission has not proposed a particular
18 penalty or a method for assessing the penalty. Nor, of course, has
19 Gilak taken a position on the appropriate amount of civil monetary
20 penalties. Based on the facts of this case, the court concludes
21 that a single \$110,000 penalty for each of Gilak's six guilty
22 counts is warranted. Accordingly, the court assesses a \$660,000
23 civil monetary penalty. This is incorporated into the detailed
24 order and injunction (Doc #181) filed with this order.

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In sum, the Commission's motion for summary judgment (Doc #175) is GRANTED.

IT IS SO ORDERED.



VAUGHN R WALKER
United States District Chief Judge