

1 MORGAN, LEWIS & BOCKIUS LLP
 D. WARD KALLSTROM, State Bar No. 76937
 2 NICOLE A. DILLER, State Bar No. 154842
 ANGEL T. LIN, State Bar No. 255682
 3 One Market, Spear Street Tower
 San Francisco, CA 94105-1126
 4 Tel: 415.442.1000
 Fax: 415.442.1001
 5 E-mail: dwkallstrom@MorganLewis.com
 ndiller@MorganLewis.com
 6 alin@MorganLewis.com

7 Attorneys for Defendants and Cross-Defendants
 Bay Environmental Management Inc., Caesar Nuti,
 8 Dennis Varni, Mario Aquilino, Loyd Bonfante Sr.,
 Joseph Della Zoppa, Estate of Richard Granzella Sr.,
 9 Edward Menosse, Pasquale Parenti, and Estate of Pina J.
 Barbieri

10
 11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 13 SAN FRANCISCO DIVISION

14 JERRY VAUGHN and THERESA
 TRAVERS,

15
 16 Plaintiffs,

17 v.

18 BAY ENVIRONMENTAL MANAGEMENT
 INC., CAESAR NUTI, DENNIS VARNI,
 MARIO AQUILINO, LOYD BONFANTE
 SR., JOSEPH DELLA ZOPPA, ESTATE OF
 19 RICHARD GRANZELLA SR., EDWARD
 MENOSSE, PASQUALE PARENTI, FSC
 20 SECURITIES CORPORATION, AND
 JERROLD N. WEINBERG

21 Defendants.

22 FSC SECURITIES CORPORATION and
 JERROLD N. WEINBERG,

23
 24 Cross-Claimants,

25 v.

26 BAY ENVIRONMENTAL MANAGEMENT
 INC., ESTATE OF PINA J. BARBIERI,
 CAESAR NUTI, DENNIS VARNI,

27 Cross-Defendants.

Case No. C03-5725 SC

**STIPULATION AND [PROPOSED]
 ORDER VACATING HEARING ON
 MOTION FOR PRELIMINARY
 APPROVAL OF CLASS ACTION
 SETTLEMENT**

1 WHEREAS, the parties filed a settlement term sheet with the Court on July 30, 2010
2 (Docket No. 206), which set forth the essential terms on which they have agreed to settle this
3 matter;

4 WHEREAS, the parties filed a stipulation and proposed order on August 6, 2010
5 (Docket No. 207), stating that they expected to finalize their settlement agreement in a formal
6 written document no later than August 18, 2010, and that Plaintiffs expected to file their
7 unopposed motion for preliminary approval of the settlement no later than August 20, 2010;

8 WHEREAS, the parties' August 6, 2010 stipulation requested that the hearing on the
9 motion for preliminary approval be set for September 3, 2010, at 10:00 a.m.;

10 WHEREAS, the Court approved the parties' stipulation on August 9, 2010 (Docket No.
11 208), vacating all prior dates set on the Court's calendar and setting the hearing on the motion
12 for preliminary approval for September 3, 2010;

13 WHEREAS, the parties have been working diligently on the formalization of the
14 settlement agreement, but have been unable to finalize the settlement as of this time;

15 WHEREAS, the parties expect to execute a finalized settlement agreement in the near
16 future, with Plaintiffs filing an unopposed motion for preliminary approval of that agreement;

17 NOW, THEREFORE, the parties stipulate, and respectfully request the Court to order,
18 as follows:

- 19 1. That the September 3, 2010 hearing date be vacated; and
20 2. That the parties submit a status report to the Court in two weeks, if the
21 settlement and Plaintiffs' motion for preliminary approval has not been filed by that time.

22 ///

23 ///

24 ///

1 DATE: August 20, 2010

MORGAN LEWIS & BOCKIUS LLP

2

3

By: /s/ Nicole A. Diller

4

Nicole A. Diller

5

Attorneys for Defendants

6

BAY ENVIRONMENTAL

7

MANAGEMENT INC., CAESAR NUTI,

8

DENNIS VARNI, MARIO AQUILINO,

9

LOYD BONFANTE SR., JOSEPH DELLA

10 DATE: August 20, 2010

LEWIS, FEINBERG, LEE, RENAKER &
JACKSON, P.C.

11

12

By: /s/ Teresa S. Renaker

13

Teresa S. Renaker

14

Attorneys for Plaintiffs JERRY VAUGHN
and THERESA TRAVERS

15

DATE: August 20, 2010

WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP

16

17

By: /s/ Bernard Gehlhar

18

Bernard Gehlhar

19

Emily Wood

20

Attorneys for Co-Defendants FSC
SECURITIES CORPORATION and
JERROLD N. WEINBERG

21

22

ATTESTATION

23

24

Pursuant to General Order 45(X), I attest that concurrence in the filing of this document

25

has been obtained from each of the other signatories.

26

Dated: August 20, 2010

By: /s/ Nicole A. Diller

27

Nicole A. Diller

28

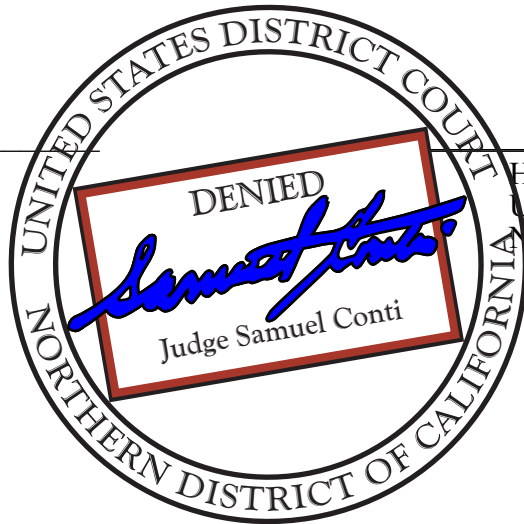
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[PROPOSED] ORDER

Pursuant to stipulation, the Court hereby ORDERS as follows:

1. The hearing set for September 3, 2010 at 10:00 a.m. on the motion for preliminary approval of the class action settlement in this matter is vacated.
2. The parties are ordered to submit a status report in this matter on September 3, 2010 if no motion for preliminary approval of a settlement has been filed by that date.

DATE: _____



Hon. Samuel Conti
United States District Court Judge
Northern District of California