

United States District Court
For the Northern District of California

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

THE ANSCHUTZ CORPORATION,

Plaintiff,

v.

MERRILL LYNCH & CO., et al.,

Defendants.

No. C 09-03780 SI

**ORDER ON FITCH’S MOTION TO
COMPEL**

Currently before the Court is defendant Fitch, Inc.’s motion to compel plaintiff to produce information from the files of its CEO Philip Anschutz in response to requests regarding documents concerning plaintiff’s understanding of: (1) ARS and CDOs; (2) understanding of and reliance on Fitch’s ratings; and (3) policies, practices, and procedures for investing in complex structured finance products such as ARS. Docket No. 274.

Plaintiff disputes the need to search for these documents and contends it would suffer undue burden in searching because CEO Philip Anschutz had no role in TAC’s investment and purchase of any ARS products or any investment for TAC’s “working capital accounts” for which the investments at issue were bought. *Id.*, at 4. However, in an “effort to put this issue to rest,” plaintiff has confirmed that Mr. Anschutz “has no responsive documents. Mr. Anschutz does not use a work computer and does not maintain electronic documents.” Docket No. 279 at 3.


As such the Court DENIES Fitch’s motion as moot without prejudice. In order to avoid any lingering ambiguity, however, the Court ORDERS plaintiff to confirm within three days of this Order: (1) whether Mr. Anschutz’s administrative assistant handles Mr. Anschutz’s emails for him; if so, (2) whether Mr. Anschutz’s administrative assistant’s emails were searched for responsive records; and (3)

1 whether any responsive records were found in those emails handled by the administrative assistant. *See*
2 Docket No. 281 at 2 & n.2.

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IT IS SO ORDERED.

Dated: October 25, 2011



SUSAN ILLSTON
United States District Judge