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

SECURITIES AND EXCHANGE  
COMMISSION,

No. C 11-00137 WHA

Plaintiff,

v.

**ORDER REGARDING  
E-MAIL FROM COUNSEL  
FOR DEFENDANT MERK**

KIMON DAIFOTIS and RANDALL MERK,

Defendants.

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Yesterday afternoon, Lee Taylor, counsel for defendant Merk, sent an e-mail to the Court's Deputy Clerk, regarding the case management conference that was advanced from April 21 to March 17. Counsel requests that the original date be reinstated.

Given that the Commission's case against Schwab has settled, that all parties are represented in the above-captioned case, and that so much work has been done in the past with regard to the disputed subject matter via the class action, it is time to get this case moving. If New York-based counsel are unable to attend the case management conference (one of the issues raised in counsel's e-mail), then local counsel may appear, but the case management conference will go forward on March 17.

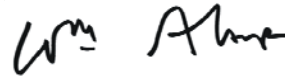
If counsel would prefer to move the case management conference to March 3 at 11:00 a.m., then the Court will accommodate them. Failing a filed stipulation advancing the case management conference to March 3, it will remain on March 17 at 11:00 a.m.

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In the future, the parties shall not communicate with the Court via e-mail to its Deputy Clerk.

**IT IS SO ORDERED.**

Dated: February 18, 2011.



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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE