

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

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHIRLEY PUTNAM,
Plaintiff,
v.

No. C 10-1456 PJH
ORDER OF DISMISSAL

PNC GLOBAL INVESTMENT SERVICING,
INC., et al.,
Defendants.

_____ /

On June 7, 2010, this court dismissed without prejudice plaintiff's complaint against defendant. Plaintiff was ordered to file an amended complaint no later than July 7, or the complaint would be dismissed with prejudice. Plaintiff failed to do so, but did file a stipulation re: ADR process on July 1, 2010. On July 15, 2010, this court issued an order to show cause, instructing plaintiff to show cause why the action should not be dismissed with prejudice, and informing plaintiff that she could discharge the order to show cause by filing an amended complaint in accordance with the court's instructions no later than July 21, 2010, or else respond in writing to the OSC. More than one week has now passed since the July 21 deadline, and plaintiff has again failed to file an amended complaint, or otherwise respond in writing to the court's prior order.

The court has considered the five factors set forth in Malone v. United States Postal Service, 833 F.2d 128, 130 (9th Cir. 1987), and has determined that notwithstanding the public policy favoring the disposition of actions on their merits, the court's need to manage its docket and the public interest in the expeditious resolution of the instant litigation require dismissal of this action. In view of plaintiff's lack of response to this court's prior orders, the

United States District Court
For the Northern District of California

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

court finds there is no appropriate less drastic sanction.

Accordingly, this action is DISMISSED with prejudice pursuant to Fed. R. Civ. Pro. 41(b) for plaintiff's failure to prosecute. In light of this holding, defendant's pending motion to be relieved as counsel in connection with this litigation is also denied as MOOT.

IT IS SO ORDERED.

Dated: July 30, 2010



PHYLLIS J. HAMILTON
United States District Judge