

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CASE NO: 8:09-cv-1093-T-26EAJ

JOHN S. MORGAN, et al.,

Defendants.

ORDER

Pending before the Court is Plaintiff's unopposed motion to amend its motion for summary judgment, together with the consents of Defendants Stephen E. Bowman and Bowman Marketing Group, Inc. Consistent with those consents, Plaintiff has submitted a proposed final judgment against those two Defendants, which, after review, the Court will enter. In light of the entry of that judgment, the Court's preference is to deny the motion as unnecessary and to deny the motion for summary judgment as moot and to require Plaintiff to file a separate motion for disgorgement/civil penalties, consistent with paragraphs 2 of the consents and paragraph V of the final judgment.¹ Before filing the motion, the Court directs the parties to engage in good faith settlement negotiations to resolve the disgorgement issue within the next seven (7) days. If the

¹ The Court notes in that regard that the parties have specifically agreed in the consents and the final judgment that the summary judgment standard embodied in Rule 56(c) of the Federal Rules of Civil Procedure will not govern the Court's determination as to the amount of disgorgement/civil penalties, if any, Defendants will be required to make.

parties are unable to resolve this issue, Plaintiff shall file its motion on or before April 23, 2010, and Defendants shall file their response within the time fixed by Local Rule 3.01(b).

In view of the foregoing, it is ordered and adjudged that Plaintiff's Unopposed Motion to Amend Its Motion for Summary Judgment (Dkt. 87) is denied as unnecessary. Plaintiff's Motion for Summary Judgment is denied (Dkt. 68) without prejudice as moot.

DONE AND ORDERED at Tampa, Florida, on April 15, 2010.

s/Richard A. Lazzara
RICHARD A. LAZZARA
UNITED STATES DISTRICT JUDGE

COPIES FURNISHED TO:
Counsel of Record