

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

|  |   |                     |
|--|---|---------------------|
| _____                                    | : | Civil Action No.    |
| BENSON DURUAKU, et al.,                  | : | 05 - 5285 (KSH)     |
|  | : |                     |
| Plaintiffs,                              | : |                     |
|  | : |                     |
| v.                                       | : | <b><u>ORDER</u></b> |
|  | : |                     |
|  | : |                     |
| BRANCH BANKING AND TRUST CO.,            | : |                     |
| incorrectly pleaded as BB&T Bank, et al. | : |                     |
|  | : |                     |
| Defendant.                               | : |                     |
| _____                                    | : |                     |

The Honorable Patty Shwartz, United States Magistrate Judge, issued a report and recommendation on November 15, 2006, recommending that this Court dismiss the complaint against defendants Darra Panthaky and Alpha Funding Group without prejudice due to the plaintiffs' failure to serve these defendants with the summons and complaint on or before October 30, 2006, as required by a September 7, 2006 scheduling order. No objection having been filed nor compliance with the order having been undertaken, and the Court having reviewed the report and recommendation of Magistrate Judge Shwartz,

**IT IS** on this 7<sup>th</sup> day of December, 2006,

**ORDERED**, that the report and recommendation of Magistrate Judge Shwartz is adopted as the opinion of the Court; and it is further

**ORDERED**, that the complaint against defendants Darra Panthaky and Alpha Funding Group is hereby **dismissed** without prejudice.

/s/ Katharine S. Hayden  
KATHARINE S. HAYDEN, U.S.D.J.