

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 08-81565-CIV-HURLEY/HOPKINS**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**CREATIVE CAPITAL CONSORTIUM, LLC,  
A CREATIVE CAPITAL CONCEPT\$, LLC, and  
GEORGE L. THEODULE,**

**Defendants.**

---

**DEFENDANT, GEORGE L. THEODULE’S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rules of Civil Procedure 56(b) and S.D. Fla. L.R. 7.5, defendant, GEORGE L. THEODULE (“Theodule”), moves for summary judgment against Plaintiff’s one-count Complaint, and states as follows:

1. Essential to Plaintiff, Securities and Exchange Commission’s (“SEC”) one-count Complaint for securities fraud is proof of scienter, or, stated differently, proof that defendant Theodule did not act in good faith.
2. The SEC has no such proof, nor will it be able to present such proof in the future.
3. Theodule presents in the accompanying exhibits the declarations of more than 170 investors and employee witnesses who attest to Theodule’s good faith attempts to comply with the law and their belief that Theodule at all times acted honestly, despite the catastrophic market losses suffered by his investment organization, defendant Creative Capital Consortium, LLC.
4. Summary judgment is appropriate because the SEC will not be able to establish

the proof of a necessary element of its claim for relief.

WHEREFORE, defendant, George Theodule prays that this Court grant his motion for summary judgment.

Respectfully submitted,

Dated: April 18, 2009

By: s/ Russell C. Weigel, III

Russell C. Weigel, III  
Fla. Bar No. 822159

**RUSSELL C. WEIGEL, III, P.A.**

5775 Blue Lagoon Drive  
Suite 100  
Miami, Florida 33126  
Tel: (786) 888-4567  
Fax: (786) 787-0456  
rweigel@InvestmentAttorneys.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the service list below in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically

Notices of Electronic Filing:

Rachel Paulose, Esq.  
Securities and Exchange Commission  
801 Brickell Ave., Ste. 1800  
Miami, FL 33131  
***Counsel for Plaintiff  
Securities & Exchange Commission***

David C. Cimo, Esq,  
Carmen Contreras-Martinez, Esq.  
Genovese Joblove & Battista, P.A.  
4400 Bank of America Tower

100 Southeast Second Street  
Miami, FL 33131  
*Counsel for the Receiver*

Dated: April 22, 2009

s/ Edward R. Averbuch  
Edward R. Averbuch