

Exhibit 3

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November 13, 2012

VIA ELECTRONIC MAIL

TO: STEERING COMMITTEE¹

Re: *In re the Application of The Bank of New York Mellon* (Index No. 6517876-2011) – Non-Party
Subpoena to EmphaSys Technologies, Inc.

Dear Counsel:

On behalf of EmphaSys Technologies, Inc. (“ETI”) and The Bank of New York Mellon (“BNYM”), I write to respond to the document subpoena that the Steering Committee served on ETI in connection with the above-captioned matter (the “Proceeding”) on or about October 29, 2012 (the “Subpoena”). Pursuant to CPLR 3122, ETI objects to the Subpoena as follows:

1. ETI’s response to any of the requests contained in the Subpoena is not an admission or acknowledgement that such Request calls for information that is relevant to the subject matter of this Proceeding.

2. ETI, a non-party to this proceeding, objects to the Subpoena in its entirety as being overbroad, unduly burdensome and oppressive.

3. ETI objects to each request, definition and instruction contained in the Subpoena to the extent that any request, definition or instruction contains an inaccurate, incomplete or misleading description of the facts, persons, or events underlying this Proceeding. The disclosure of information in response to the Subpoena shall not constitute ETI’s agreement with or acquiescence to, any such description.

4. ETI objects to the Subpoena to the extent it calls for the production of documents that are not relevant to the question presented in this Proceeding, which is whether BNYM’s decision (as trustee) to enter into the Settlement Agreement (as defined in the Verified Petition, dated June 28, 2011) was within the bounds of reasonableness, or otherwise likely to lead to the discovery of admissible evidence.

¹ Because the Subpoena was submitted on behalf of only the AIG Entities, Triaxx Entities and Federal Home Loan Banks of Boston, Chicago and Indianapolis, the non-submitting members of the Steering Committee were not served a copy of this letter.

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5. ETI objects to the Subpoena to the extent it seeks information in the public domain, already in the Steering Committee's possession, custody or control, or equally available to the Steering Committee.

6. ETI objects to the Subpoena to the extent that it calls for the disclosure of privileged information or communications, including, without limitation, information that was prepared, generated, or received for or in anticipation of litigation, information that constitutes attorney-work product, or any other applicable privilege (including the common interest privilege), rule of privacy or confidentiality, immunity, protection, or restriction that makes such information non-discoverable.

7. ETI objects to the Subpoena to the extent that it seeks information in the possession, custody, or control of persons or entities other than ETI.

8. ETI objects to the Subpoena to the extent that it seeks cumulative or duplicative information.

9. ETI objects to the Subpoena to the extent that it is vague, ambiguous, overbroad, unduly burdensome, oppressive, not susceptible to a reasoned interpretation, not reasonably particular and do not otherwise comply with Rule 3120 of the CPLR, the Rules of the Commercial Division of the Supreme Court, Section 202.70 of the Uniform Rules for the Trial Courts, and/or any other applicable local rules.

10. ETI objects to the Subpoena to the extent that it is not limited to a reasonable period of time or the time period at issue in this Proceeding.

12. ETI objects to the Subpoena and the instructions contained therein to the extent that they seek to impose obligations beyond those set forth in Rule 3120 of the CPLR, the Rules of the Commercial Division of the Supreme Court, Section 202.70 of the Uniform Rules for the Trial Courts, and/or any other applicable local rules.

13. ETI objects to the Subpoena to the extent that it is unduly vague, precluding ETI from determining with sufficient precision the identity of documents for which you seek production.

14. ETI objects to the Subpoena on the grounds that it calls for the production of documents which constitute proprietary information, trade secrets or other confidential, research, development or commercial information of ETI.

15. ETI objects to the Subpoena to the extent that it seeks the production of any information which ETI is precluded from disclosing under any applicable statutes, regulations, or laws.

ETI expressly reserves the right to amend, expand or delete any part of the objections stated herein. Citations or references to particular definitions, instructions, rules of construction,

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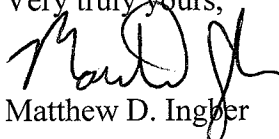
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or requests do not constitute a waiver of any and all objections ETI has, or may interpose in the future, to any definitions, instructions, rules of construction and/or requests not cited herein.

ETI will not undertake efforts to preserve documents to the extent that doing so will require an unreasonable amount time and expense, which ETI, as a non-party to this Proceeding, is not required to undertake. To the extent that ETI is able to ascertain and limit the scope of the Subpoena, ETI will take reasonable steps to ensure that documents responsive to the Subpoena are preserved so that they might be produced in the Proceeding.

ETI was retained for the sole purpose of assisting Mayer Brown in providing legal advice to BNYM. Therefore, most, if not all, documents that ETI may have in its possession that are responsive to the Subpoena are protected from discovery based on the attorney client privilege and will not be produced. *See Cargill, Inc. v. Sears Petroleum & Transp. Corp.*, 2003 U.S. Dist. LEXIS 27543, at *10 (N.D.N.Y Sept. 17, 2003) (The attorney-client privilege is considered as “extending to communications with specialists engaged to assist attorneys in performing their representational functions.”) (citations omitted). Although we will not be able to produce a privilege log before the November 15 ETI deposition, this letter serves as notice that the entire ETI engagement relating to the Settlement Agreement, including virtually all of ETI’s communications with Mayer Brown or BNYM and all of ETI’s work product, is covered by the attorney-client privilege. At ETI’s deposition, we will allow ETI to testify about non-privileged matters, but those topics necessarily will be narrow.

Very truly yours,



Matthew D. Ingber

cc: Hector Gonzalez, Esq.