

Haupt Affirmation

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the matter of the application of

THE BANK OF NEW YORK MELLON, (as Trustee under various Pooling and Servicing Agreements and Indenture Trustee under various Indentures), BlackRock Financial Management Inc. (intervenor), Kore Advisors, L.P. (intervenor), Maiden Lane, LLC (intervenor), Metropolitan Life Insurance Company (intervenor), Trust Company of the West and affiliated companies controlled by The TCW Group, Inc. (intervenor), Neuberger Berman Europe Limited (intervenor), Pacific Investment Management Company LLC (intervenor), Goldman Sachs Asset Management, L.P. (intervenor), Teachers Insurance and Annuity Association of America (intervenor), Invesco Advisors, Inc. (intervenor), Thrivent Financial for Lutherans (intervenor), Landesbank Baden-Wuerttemberg (intervenor), LBBW Asset Management (Ireland) plc, Dublin (intervenor), ING Bank fsb (intervenor), ING Capital LLC (intervenor), ING Investment Management LLC (intervenor), Nationwide Mutual Insurance Company and its affiliated companies (intervenor), AEGON USA Investment Management LLC, authorized signatory for Transamerica Life Insurance Company, AEGON Financial Assurance Ireland Limited, Transamerica Life International (Bermuda) Ltd., Monumental Life Insurance Company, Transamerica Advisors Life Insurance Company, AEGON Global Institutional Markets, plc, LIICA Re II, Inc., Pine Falls Re, Inc., Transamerica Financial Life Insurance Company, Stonebridge Life Insurance Company, and Western Reserve Life Assurance Co. of Ohio (intervenor), Federal Home Loan Bank of Atlanta (intervenor), Bayerische Landesbank (intervenor), Prudential Investment Management, Inc. (intervenor), and Western Asset Management Company (intervenor),

Petitioners,

for an order, pursuant to C.P.L.R. § 7701, seeking judicial instructions and approval of a proposed settlement.

Index No. 651786-2011

Kapnick, J.

Motion Sequence No. 29

AFFIRMATION OF CHRISTOPHER J. HOUPT


The undersigned, Christopher J. Houpt, states the following under penalty of perjury:

1. I am associated with Mayer Brown LLP and submit this affirmation in support of The Bank of New York Mellon's opposition to the motion to compel discovery from EmphaSys Technologies, Inc. ("ETI") (motion sequence 29).
2. On November 13, 2011, I spoke on the phone with Michael Rollin, counsel for AIG, regarding the deposition of ETI's representative, scheduled for November 15.

3. I told Mr. Rollin that ETI's engagement in connection with the Settlement Agreement was privileged and advised him that the witness would have little, if any, relevant and non-privileged testimony.

4. Mr. Rollin stated that he appreciated the warning but that he still wanted to proceed with the deposition, in part so that he could explore the privilege issues on a question-by-question basis and in part because he might want to inquire about ETI's non-privileged "shadow analytics" work (which is described in the accompanying Memorandum of Law).

Affirmed this 25th day of January, 2013



Christopher J. Haupt