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August 8, 2012

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Hon. Barbara R. Kapnick, Justice  
Supreme Court of the State of New York     **VIA ECF AND HAND DELIVERY**  
60 Centre Street, Part 39  
New York, New York 10007

**Re:    In re: The Bank of New York Mellon, Index No. 651786/11**

Dear Justice Kapnick:

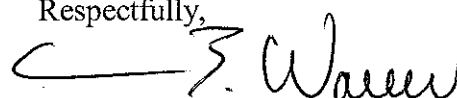
On behalf of the Institutional Investors (whom I represent together with Gibbs & Bruns) and the Trustee, The Bank of New York Mellon (represented by Mayer Brown), I enclose herewith, for the Court's convenience, a WordPerfect version of the Scheduling Order I handed up to Your Honor on August 2.

That Scheduling Order was read *verbatim* into the record by Mr. Reilly on May 8 as having been agreed to by petitioners and the Steering Committee. On May 30 it was sent to Your Honor by cover letter from Mr. Ingber, again as a proposed order agreed to by petitioners and the Steering Committee.

At the time of the above submissions many issues were unresolved that Your Honor has since addressed, moving this case and discovery forward substantially as a result. Nevertheless the Steering Committee has submitted a counter-Scheduling Order that moves deadlines into the distant future and removes even a *proposed* hearing date. Such a schedule encourages delay. As the saying goes, "work expands to fill the time allotted to it."

We believe that our proposed Order is realistic and that its deadlines can be achieved, particularly in light of the guidance and focus Your Honor has provided. But even if some of these deadlines are subsequently extended by Your Honor based on future circumstances, our proposed Order is most consistent with the summary, expedited nature of an Article 77 proceeding and provides the parties with deadlines to aim for consistent with that.

Respectfully,



Kenneth E. Warner

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cc: All counsel of record