

Exhibit 46
to
Affidavit of Daniel M. Reilly
in Support of Joint Memorandum of
Law in Opposition to Proposed Settlement

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

-----X
In the Matter of the Application of

Index No. 651786/

THE BANK OF NEW YORK MELLON
(As trustee under various Pooling
and Servicing Agreements and
Indenture Trustee under various
Indentures), et al.,

Assigned to Kapnick, J.

Petitioners,

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

-----X

* C O N F I D E N T I A L *

VIDEOTAPED DEPOSITION

OF

ROBERT GRIFFIN

New York, New York

Thursday, January 3, 2013

Reported by:
ANNETTE ARLEQUIN, CCR, RPR, CCR, CLR
JOB NO. 56770

1 R. Griffin - Confidential

2 MS. BRASWELL: You're right.

3 MR. INGBER: -- outside of deposition
4 prep. I don't think there was an answer.

5 MS. BRASWELL: Thank you.

6 BY MS. BRASWELL:

7 Q. Mr. Griffin, have you seen this the
8 document before outside of preparation for this
9 deposition?

10 A. I don't recall.

11 Q. Do you understand this to be a
12 proposed order that the Bank of New York Mellon
13 is submitting to the court for judicial
14 approval?

15 A. It appears to be so.

16 Q. And if you look at page 4, paragraph
17 H, you'll see that the trustee is asking the
18 court to find that the settlement agreement is
19 the result of factual and legal investigation by
20 the trustee and is supported by the
21 institutional investors.

22 Did I read that correctly?

23 A. Yes.

■ ■ [REDACTED]

■ [REDACTED]

1 R. Griffin - Confidential

2 A. No, not because we were being
3 indemnified from Bank of America. We looked at
4 this as being very beneficial for holders.

5 MR. INGBER: Don't get into substance
6 of communications with counsel.

7 THE WITNESS: Okay.

8 BY MS. BRASWELL:

9 Q. You saw this as being beneficial to
10 holders, correct?

11 A. Correct.

12 Q. And you believed that the trustee had
13 the authority to enter into the forbearance
14 agreement?

15 MR. INGBER: You're asking
16 Mr. Griffin's personal opinion on the
17 question of whether the trustee was
18 authorized or could enter into the
19 forbearance agreement?

20 MS. BRASWELL: Correct.

21 A. Yes.

22 Q. Can you tell me what provision of the
23 Pooling and Servicing Agreement authorizes the
24 trustee to enter into a forbearance agreement?

25 A. No.

1

R. Griffin - Confidential

■ ■ [REDACTED]

■ [REDACTED]

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ ■ [REDACTED]

■ ■ [REDACTED]

■ ■ [REDACTED]

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ ■ [REDACTED]

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ ■ [REDACTED]

1

R. Griffin - Confidential

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

1

R. Griffin - Confidential

- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

1

R. Griffin - Confidential

- ■ [REDACTED]
- [REDACTED] [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]

1

R. Griffin - Confidential

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1

R. Griffin - Confidential

[REDACTED]

- [REDACTED] [REDACTED] [REDACTED] [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] [REDACTED]

1

R. Griffin - Confidential

- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]

1

R. Griffin - Confidential

[Redacted text block containing multiple lines and paragraphs of information, all obscured by black bars]

1

R. Griffin - Confidential

[Redacted text block containing multiple lines of blacked-out content]

1

R. Griffin - Confidential

- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED] [REDACTED]
- [REDACTED] [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]

1

R. Griffin - Confidential

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

MAYER • BROWN

Mayer Brown LLP
1675 Broadway
New York, New York 10019-5820

Main Tel +1 212 506 2500
Main Fax +1 212 262 1910
www.mayerbrown.com

Matthew D. Ingber
Direct Tel +1 212 506 2373
Direct Fax +1 212 849 5973
mingber@mayerbrown.com

January 16, 2013

VIA ELECTRONIC MAIL

TO: STEERING COMMITTEE

Re: *In re the Application of The Bank of New York Mellon* (Index No. 651786-2011)

Dear Counsel:

Pursuant to Paragraph 2(c) of the protective order signed by the parties and so ordered by Justice Kapnick on June 14, 2012 (the "Protective Order"), The Bank of New York Mellon designates the following portions of the deposition of Robert Griffin as "Confidential," as it is defined in the Protective Order:

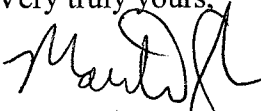
January 3, 2013 Transcript Page/Line Designation
12:9-13:3
21:18-22:20
27:6-81:19
82:4-116:2
116:10-168:12
169:11-227:11
227:20-245:15
245:25-311:23
312:8-343:16
344:4-349:16

January 16, 2013

Page 2

Please feel free to call or email me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "M. Ingber", written in a cursive style.

Matthew D. Ingber

R. Griffin - Confidential

THE VIDEOGRAPHER: This concludes today's deposition. The time is 5:29 p.m. We're off the record.

(Time noted 5:29 p.m.)

Robert Griffin

ROBERT GRIFFIN

Subscribed and sworn to before me this 26th day of March 2013.

Al. Khalil (Rough)

CAROLINA KOLIK (KOLIK)
Notary Public - State of New York
NO. 01K06173055
Qualified in Kings County
My Commission Expires 11/18/2015

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1

2

ERRATA SHEET FOR THE TRANSCRIPT OF:

3

CASE NAME: Matter of the Application of BNYM

4

DATE: THURSDAY, JANUARY 3, 2013

5

DEPONENT: ROBERT GRIFFIN - CONFIDENTIAL

6

Pg.	Ln.	Now Reads	Should Read	Reason
7	3	Bank	The Bank	Party name
8	29	^{+throughout} ₁₈ Peets	Peetz	Misspelling
9	40	^{+throughout} ₁₈ Deborah	Debra	Misspelling
10	40	adding	hatting	Transcription error
11	139	derived	is derived	Transcription error
12	228	tens	tense	misspelling
13	313	servicer's,	servicer	misspelling
14	341	Yeah, I	I	Clarification
15	—	—	—	—

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

SUBSCRIBED AND SWORN BEFORE ME

THIS 26th DAY OF March 2013.

Car. Kolik (Roz)
(Notary Public)



MY COMMISSION EXPIRES: 11/18/2015

Mayer Brown LLP
1675 Broadway
New York, New York 10019-5820

Main Tel +1 212 506 2500
Main Fax +1 212 262 1910
www.mayerbrown.com

Matthew D. Ingber
Direct Tel +1 212 506 2373
Direct Fax +1 212 849 5973
mingber@mayerbrown.com

April 26, 2013

VIA ELECTRONIC MAIL

Michael A. Rollin
Reilly Pozner LLP
1900 Sixteenth Street
Suite 1700
Denver, CO 80202

Re: *In re the Application of The Bank of New York
Mellon* (Index No. 651786/2011)

Dear Mike:

I am writing in response to your March 11, 2013 and April 17, 2013 letters regarding confidentiality designations of discovery materials. In addition to the materials we agreed to de-designate per our April 3, 2013 and April 22, 2013 letters, we will also remove confidentiality designations from the deposition transcript excerpts listed in Exhibit A (attached). The remaining excerpts should retain their "confidential" designations in accordance with section 1(d) of the Protective Order.

Please call my colleague, Chris Houpt, or me if you have any questions.

Very truly yours,


Matthew D. Ingber

cc: All counsel

Mayer Brown LLP

Michael A. Rollin
April 26, 2013
Page 2

EXHIBIT A

Michael A. Rollin
April 26, 2013
Page 3

Daines
7:2-43:12
44:22-61:10
61:23-120:10

Lin
37:11-38:16
60:24-63:21
64:16-68:21
73:19-89:5
128:3-133:24
147:2-159:7
166:22-168:3
173:14-177:12
178:25-181:22
186:5-189:16
243:11-260:9
261:22-339:22
358:18-358:22
359:9-377:7
380:22-399:25
403:3-406:10
407:13-415:7
452:4-499:18
512:6-545:12
545:24-577:21
580:11-582:23
588:12-592:18
600:4-678:2

Adler
7:18-13:25
17:9-18:5
45:14-71:2
71:17-87:9
88:18-94:3
94:15-124:20
126:24-141:20
152:5-152:11
153:16-153:25
156:4-177:25

Michael A. Rollin

April 26, 2013

Page 4

178:9-216:19
217:10-254:13
257:8-258:11
258:21-259:20

<u>Stanley</u>
14:2-16:15
44:9-47:22
137:7-139:1
226:23-229:3
238:3-241:16
246:19-251:7

<u>Buechele</u>
34:5-40:2
49:16-52:16
61:17-69:2
81:13-92:18
98:13-98:21
103:8-105:9
108:9-112:23
113:11-116:25
142:13-157:11
158:25-166:20
173:12-180:13
221:3-222:9

<u>Griffin</u>
32:16-36:3
66:11-67:23
71:24-81:19
83:17-85:22
85:23-88:8
134:18-136:22
140:7-141:12
147:15-148:25
177:3-179:19
181:22-186:25
192:1-192:11
204:2-207:20

Michael A. Rollin

April 26, 2013

Page 5

219:25-225:11
227:20-231:5
253:9-261:5
278:7-2-282:3
293:22-311:10
312:8-331:9

<u>Kravitt</u>
29:2-31:14
34:5-36:19
65:2-72:3
80:12-82:11
122:9-137:5
157:4-168:17
170:25-175:24
177:15-191:3
209:22-214:24
257:14-279:23
322:12-343:16
344:2-349:19
350:17-375:3
376:3-383:5
384:9-385:15
386:25-389:6
389:16-391:5
396:25-398:21
399:12-402:22
407:5-408:20
409:8-414:19
423:4-440:10
470:11-476:22
480:1-518:6
527:2-533:20
534:9-541:3
586:9-590:11
595:6-604:6
604:16-606:2
606:14-611:4
614:6-621:20
626:5-632:4
632:25-640:4
641:3-645:11

Michael A. Rollin
April 26, 2013
Page 6

Lundberg
10:22-14:3
18:3-24:7
33:24-36:14
38:14-46:5
67:20-68:8
70:21-71:13
75:2-78:4
109:14-110:6
122:25-125:5
390:12-396:24
404:2-407:20
408:17-409:22
411:14-24

Bailey
13:24-14:16
15:16-16:18
20:2-26:11
49:3-50:16
51:14-58:21
62:19-66:1
66:15-68:8
71:25-74:11
75:22-77:24
78:9-80:14
82:11-85:16
89:20-91:18
91:19-93:7
93:8-94:15
97:16-100:10
102:3-103:20
105:20-106:13
110:19-113:25
114:2-114:7
117:15-121:7
125:10-126:4
133:25-149:14

Michael A. Rollin
April 26, 2013
Page 7

154:11-24
156:8-17
187:4-189:15
194:14-197:19
213:2-217:13
220:9-221:25
222:8-223:2
241:5-246:2
247:22-249:23
250:13-252:20
256:21-258:7
265:24-268:18
270:12-273:4
273:25-275:7
294:10-296:19
305:17-306:13
307:5-309:21
316:10-318:17

Crosson
15:14-17:23
22:14-24:9
81:25-83:16
83:21-84:20
86:9-11
86:23-87:3
88:2-98:5
100:18-103:19
105:11-113:15
118:17-146:2
146:12-149:13
150:22-156:21
158:19-162:4
168:19-178:3
184:3-187:7
187:14-194:8
199:3-204:24
205:5-206:15
206:24-209:8
209:13-210:19
210:24-224:24

Michael A. Rollin
April 26, 2013
Page 8

226:3-227:6
227:18-235:24
237:10-245:14
245:24-250:20

<u>Chapman</u>
8:25-11:8
12:9-23:16
30:10-38:19
47:18-48:23
50:7-50:19
59:17-60:3
63:4-20
73:15-76:25
130:25-131:15
161:25-164:4
253:24-254:21
265:19-267:6
268:15-269:7
270:16-272:11
285:4-287:11
292:16-294:22
319:25-322:4
324:4-325:23

<u>Chavez</u>
13:5-16:13
32:11-35:6
38:5-41:23
69:14-71:22
86:24-103:7
124:8-125:19
126:4-128:19
142:24-170:16
170:24-174:22
176:5-178:10
184:7-187:24
198:18-203:6
203:18-205:6
212:3-222:9

Michael A. Rollin

April 26, 2013

Page 9

226:19-229:5
241:23-243:9
245:2-246:16
262:15-266:10
269:3-273:4
279:24-287:13

<u>Baker</u>
8:3-8:17
8:23-8:25
9:1-10:8
11:16-11:22
12:20-15:8
15:9-16:9
16:10-17:13
18:14-19:16
35:1-36:22
37:3-38:21
43:5-43:20
69:10-73:3
74:3-10
74:16-75:18
76:2-76:15
83:7-84:16
97:1-98:20

<u>Sabry</u>
Entire Transcript

<u>Bingham</u>
Entire Transcript