

Exhibit 86
to
Affidavit of Daniel M. Reilly
in Support of Joint Memorandum of
Law in Opposition to Proposed Settlement

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

-----X

In the Matter of the)
Application of)
THE BANK OF NEW YORK MELLON)
(As Trustee under various) Index No.
Pooling and Servicing) 651786/2011
Agreements and Indenture)
Trustee under various)
Indentures), et al.,)
Petitioners,)
for an order, pursuant to)
C.P.L.R. 7701, seeking)
judicial instructions and)
approval of a proposed)
Settlement.)

-----X

VIDEOTAPED DEPOSITION OF
BRUCE B. BINGHAM
Friday, January 18, 2013
51 Madison Avenue
New York, New York

Reported by:
AYLETTE GONZALEZ, CLR
JOB NO. 56772

1 A. That's correct.

2 Q. So if we go back to this concept of
3 who might be paying a judgment against CFC and
4 you had excluded Bank of America or any of
5 it's affiliates; is that correct?

6 A. That's correct.

7 Q. The people who were giving you the
8 financial information that you were to rely
9 on, on how little CFC was worth, were the
10 people at Bank of America?

11 MR. GONZALEZ: Objection to form.

12 A. I believe so, yes.

13 Q. Well, now we talked about gauging
14 probability of success of various components
15 of a claim and you talked about that is a
16 standard thing your company can do and
17 does do?

18 A. When considering claims, yes.

19 Q. To quantify the probability of
20 success of claims against B of A or any of its
21 affiliates was not given to you as an
22 assignment?

23 A. That's correct.

24 Q. Was not given to Capstone as an
25 assignment?

1 and answered several times.

2 A. I wasn't passing judgment on the
3 relevance. I was asked to provide my opinion
4 on the documents that I utilized in my
5 analysis.

6 MS. KASWAN: I have nothing
7 further.

8 MR. GONZALEZ: Thank you.

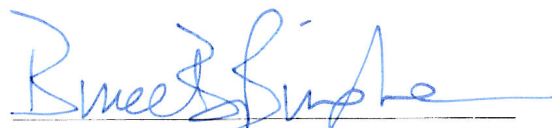
9 THE VIDEOGRAPHER: The time is now
10 5:47 p.m. We are now off the record.

11 (Whereupon, an off-the-record
12 discussion was held.)

13 (Whereupon, at 5:47 p.m., the
14 Examination of this Witness was
15 concluded.)

16

17


BRUCE B. BINGHAM

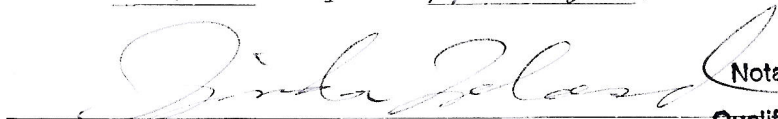
18

19

20 Subscribed and sworn to before me

21 This 3rd day of March, 2013.

22



23

NOTARY PUBLIC

24

25

LINDA LELAND
Notary Public, State of New York
No. 01LE4978607
Qualified in WESTCHESTER County
Commission Expires March 11, 2015

1 ERRATA SHEET FOR THE TRANSCRIPT OF:

2 Case Name: In the Matter of the Application
of the BANK OF NEW YORK MELLON

3 Dep. Date: January 18, 2013

Deponent: BRUCE B. BINGHAM

| 4 | Pg. | Ln. | Now Reads | Should Read | Reason |
|----|-----------|-----------|-----------------------|----------------------------|-------------------------------|
| 5 | <u>4</u> | <u>4</u> | <u>for Bank</u> | <u>for The Bank</u> | party name |
| 6 | <u>10</u> | <u>15</u> | <u>participate. I</u> | <u>participate - I</u> | clearer indication of meaning |
| 7 | <u>12</u> | <u>23</u> | <u>Solomon</u> | <u>Salomon</u> | person's name |
| 8 | <u>27</u> | <u>6</u> | <u>Solomon</u> | <u>Saloman</u> | person's name |
| 9 | <u>46</u> | <u>14</u> | <u>Striker</u> | <u>Stryker</u> | person's name |
| 10 | <u>52</u> | <u>15</u> | <u>trailer</u> | <u>trail or</u> | incorrect transcription |
| 11 | <u>79</u> | <u>9</u> | <u>I.</u> | <u>I-</u> | clearer indication of meaning |
| 12 | <u>82</u> | <u>18</u> | <u>Danes</u> | <u>Daines</u> | person's name |
| 13 | <u>83</u> | <u>8</u> | <u>Danes'</u> | <u>Daines'</u> | person's name |
| 14 | <u>83</u> | <u>11</u> | <u>Danes</u> | <u>Daines</u> | person's name |
| 15 | <u>83</u> | <u>17</u> | <u>Danes</u> | <u>Daines</u> | person's name |
| 16 | <u>85</u> | <u>14</u> | <u>Danes</u> | <u>Daines</u> | person's name |
| 17 | <u>86</u> | <u>5</u> | <u>Solomon</u> | <u>Saloman</u> | person's name |
| 18 | <u>87</u> | <u>6</u> | <u>Danes</u> | <u>Daines</u> | person's name |

19
20
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23
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25
BRUCE B. BINGHAM

SUBSCRIBED AND SWORN BEFORE ME,

This ___ day of _____, 2013.

Notary Public

My Commission Expires: _____

ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: In the Matter of the Application
of the BANK OF NEW YORK MELLON

Dep. Date: January 18, 2013

Deponent: BRUCE B. BINGHAM

| Pg. | Ln. | Now Reads | Should Read | Reason |
|-----|-----|------------|--------------|-------------------------|
| 87 | 14 | Danes | Daines | person's name |
| 87 | 21 | Danes | Daines | person's name |
| 89 | 19 | Danes | Daines | person's name |
| 89 | 20 | Solomon | Salomon | person's name |
| 91 | 8 | Solomon | Salomon | person's name |
| 130 | 21 | Danes | Daines | person's name |
| 131 | 2 | Danes | Daines | person's name |
| 131 | 6 | Solomon | Salomon | person's name |
| 135 | 13 | disgravity | this gravity | incorrect transcription |
| 140 | 10 | Solomon | Salomon | person's name |
| 155 | 16 | Kerns | Kearns | person's name |
| 156 | 1 | Kerns | Kearns | person's name |
| 156 | 4 | Kerns | Kearns | person's name |
| 156 | 23 | Kerns | Kearns | person's name |

BRUCE B. BINGHAM

SUBSCRIBED AND SWORN BEFORE ME,

This ___ day of _____, 2013.

Notary Public

My Commission Expires: _____

ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: In the Matter of the Application
of the BANK OF NEW YORK MELLON

Dep. Date: January 18, 2013

Deponent: BRUCE B. BINGHAM

| Pg. | Ln. | Now Reads | Should Read | Reason |
|-----|-----|---------------|--------------|-------------------------------|
| 157 | 14 | Kerns | Kearns | person's name |
| 166 | 24 | ENY | E and Y | company name |
| 171 | 19 | where's | whence | incorrect transcription |
| 181 | 10 | Danes | Daines | person's name |
| 181 | 18 | Danes | Daines | person's name |
| 181 | 21 | Solomon | Salomon | person's name |
| 201 | 15 | Danes | Daines | person's name |
| 201 | 18 | Danes | Daines | person's name |
| 201 | 24 | Danes | Daines | person's name |
| 204 | 18 | thought. That | thought that | clearer indication of meaning |
| 220 | 13 | Mervis | Mirvis | person's name |
| 222 | 16 | pros | prose | incorrect transcription |
| 270 | 24 | Danes | Daines | person's name |
| 283 | 25 | Soloman | Salomon | person's name |

BRUCE B. BINGHAM

SUBSCRIBED AND SWORN BEFORE ME,
This ___ day of _____, 2013.

Notary Public

My Commission Expires: _____

1 ERRATA SHEET FOR THE TRANSCRIPT OF:

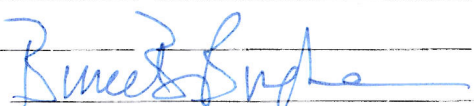
2 Case Name: In the Matter of the Application
of the BANK OF NEW YORK MELLON

3 Dep. Date: January 18, 2013


Deponent: BRUCE B. BINGHAM

| 4 | Pg. | Ln. | Now Reads | Should Read | Reason |
|----|-----|-------|-----------------|---------------|-------------------------|
| 5 | 286 | 13 | Salomon | Salomon | person's name |
| 6 | 286 | 22 | Stamford | Stanford | incorrect transcription |
| 7 | 288 | 23 | Solomon | Salomon | person's name |
| 8 | 314 | 19 | Danes | Daines | person's name |
| 9 | 11 | 24 | Capital Sources | CapitalSource | name correction |
| 10 | 159 | 12 | vested | invested | word correction |
| 11 | 283 | 16 | Danes | Daines | name correction |
| 12 | 285 | 9/15 | Danes | Daines | name correction |
| 13 | 288 | 3/8 | Danes | Daines | name correction |
| 14 | 288 | 4/16 | Danes | Daines | name correction |
| 15 | 289 | 14/18 | Danes | Daines | name correction |
| 16 | 229 | 13 | Striker | Stryker | name correction |

17 _____
 18 _____
 19 _____


 BRUCE B. BINGHAM

21 SUBSCRIBED AND SWORN BEFORE ME,
 22 This 13th day of March, 2013.

23 
 Notary Public

LINDA LELAND
 Notary Public, State of New York
 No. 01LE4978607
 Qualified in WESTCHESTER County
 Commission Expires March 11, 20 15

24 My Commission Expires: 3/11/15

25

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

February 1, 2013

VIA ELECTRONIC MAIL

TO: STEERING COMMITTEE

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

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

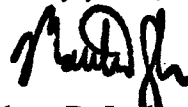
Dear Counsel:

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 Bruce Bingham as "Confidential," as it is defined in the Protective Order:

| January 18, 2013 Transcript Page/Line Designation |
|--|
| 11:17-57:25 |
| 58:11-109:25 |
| 110:15-175:4 |
| 176:13-236:4 |
| 236:17-287:3 |
| 287:17-337:5 |

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

Very truly yours,



Matthew D. Ingber

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

Michael A. Rollin
April 26, 2013
Page 2

EXHIBIT A

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 |