

Exhibit 94
to
Affidavit of Daniel M. Reilly
in Support of Joint Memorandum of
Law in Opposition to Proposed Settlement

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

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In the Matter of the Application of

Index No. 651786/

The Bank of New York Mellon
(As trustee under various Pooling Assigned to Kapnick, J.
and Servicing Agreements and
Indenture Trustee under various
Indentures), et al.,

Petitioners,

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

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

VIDEOTAPED DEPOSITION
OF
Faten Sabry Ph. D.
New York, New York
Tuesday, December 04, 2012

Reported by:
ANNETTE ARLEQUIN, CCR, RPR, CCR, CLR
JOB NO. 55545

1 F. Sabry - Confidential
2 is the marginal contribution of changes in FICOs
3 or doc type to default behavior or for different
4 deals, it can be done, but we were not asked to
5 do that.

6 Q. And I apologize for any confusion.

7 I wanted to know with respect to --
8 that was very helpful.

9 With respect to the work product that
10 NERA has been asked to produce in this case,
11 will any of that information be reflected, and
12 specifically I would like to know whether or not
13 we will be able to attribute certain dollar
14 amounts to particular types of
15 misrepresentations.

16 MR. HOUPPT: Objection to form.

17 A. We will -- what are the
18 misrepresentation -- are the misrepresentations
19 reflected in some of the variables we are
20 controlling for?

21 If that's the case, then absolutely,
22 the NERA's report should list in detail every
23 single variable and the marginal contribution of
24 that variable to losses.

25 Q. What variables will you be listing

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2 out in your work product in this case like that?

3 A. We have not completed our analysis as
4 of yet. I wanted to make that clear.

5 Q. Understood.

6 Sort of tell me where you are and
7 where you think you're going with that.

8 A. We would -- I would speak more from
9 the, based on the work product we've already
10 produced which is the methodology. As we said
11 in this, we would consider a variety of
12 variables, not just the variables that were in
13 the loan tapes, but we would consider what we
14 call time varying variables, like the change in
15 the mortgage rate, for example, that the
16 borrower pays over time. If it's an adjustable
17 rate mortgage. The changes in unemployment by
18 county or metropolitan statistical areas. We
19 would take into account changes in housing
20 prices and how that affects the -- to the extent
21 that it affects the equity or the leverage of
22 the borrower, as this is a variable that
23 actually it's one of the key variables that
24 various market participants have identified in
25 their own estimation as critical in determining

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2 default behavior.

3 Q. Are there other variables that you
4 can think of that you think will or may be part
5 of your final work product?

6 MR. HOUPT: Objection to form.

7 A. Well, we have not -- we don't have a
8 final work product yet, so I would say we would
9 consider any variables that we think are -- we
10 could -- that we think are -- would improve the
11 estimation of our models.

12 So we would definitely try to do
13 this, separate out the loans by vintage and
14 product type because the behavior and -- the
15 default behavior and the severity are known to
16 have differed quite a bit among those variables.

17 And we may also -- if we believe that
18 certain variables have measurement errors, for
19 example, we would try to adjust for that. There
20 are certain statistical tools one can apply to
21 address these issues.

22 But at the end of the day, you
23 will -- NERA's work product, which would be the
24 result of a statistical model, would be similar
25 to what we would do in other matters. We would

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2 report all the results, the estimates, the
3 margin of errors, which data sets we have used,
4 what sources we have relied on and we usually
5 produce a fair amount of backup material for how
6 we've constructed certain variables and all
7 that.

8 Q. What prevents you from doing that
9 right now?

10 MR. HOUPT: Object to form.

11 A. We have been asked by counsel to stop
12 working over a year-and-a-half ago.

13 Q. No. I mean from the perspective of
14 what it is that you need to perform that final
15 task, this final work product that you're
16 talking about, does that information -- strike
17 that.

18 Does the information that you need to
19 perform that analysis exist today?

20 A. For the most part. We would need to
21 update some of the variables we've compiled and
22 analyzed, yes.

23 Q. What variables would you have to
24 update?

25 A. Well, for example, we would need to

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2 Could we just clarify which work
3 you're talking about?

4 BY MR. ROLLIN:

5 Q. I'm talking about the final work
6 product that we talked about earlier that would
7 result in the actual trust-by-trust allocation.

8 A. No, I don't recall that was the
9 sequence of events.

10 Q. Well, do you recall anything about
11 the sequencing of your final work product as it
12 related to the court filing?

13 A. I recall that the work, that there
14 was a tight time schedule, that we need to start
15 working right away and by work I mean the actual
16 analysis and compilation of the data, and
17 getting ready to do the modeling and all that,
18 with everything, that there was a very tight
19 time schedule.

20 Q. And when were you -- when did you
21 understand that the -- strike all that. That's
22 a terrible question.

23 Did somebody at any point tell you to
24 stop working on that?

25 A. Yes.

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2 Q. And who was that?

3 A. Jason Kravitt.

4 Q. And when was that?

5 A. It must be either July or -- probably
6 August 2011.

7 Q. Did he tell you why?

8 A. I don't recall the exact reasoning
9 other than the schedule has changed, things are
10 not going as fast as we'd hoped at this point
11 and -- but that's -- I don't recall that it was
12 a call specifically to ask us to stop working at
13 this point.

14 Q. And did he express to you whether or
15 not it was the schedule that wasn't moving as
16 fast as they would like related to the court
17 proceedings?

18 A. He didn't say a whole lot. He just
19 said please stop working for now and the
20 schedule has changed. That's not uncommon in
21 cases. Things happen, yeah.

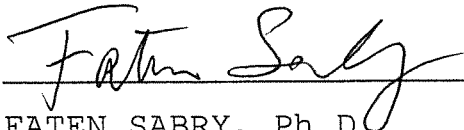
22 MR. ROLLIN: Okay. Let's take lunch
23 now.

24 THE VIDEOGRAPHER: The time is 12:41
25 p.m. We're off the record.

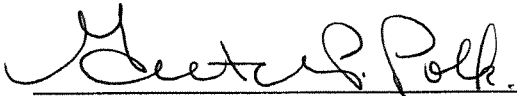
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THE VIDEOGRAPHER: This concludes
today's deposition. The time is 4:33 p.m.
We're off the record.

(Time noted: 4:33 p.m.)


FATEN SABRY, Ph.D.

Subscribed and sworn to before me
this 4th day of February 2012³.



GRETCHEN P. POLK
Notary Public, State of New York
No. 5003066
Qualified in Westchester County
Commission Expires October 13, 2014

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ERRATA SHEET FOR THE TRANSCRIPT OF:

CASE NAME:

DATE:

DEPONENT:

Pg.	Ln.	Now Reads	Should Read	Reason
3	5	for Bank	for The Bank	party name
158	9	efficiencies	deficiencies	typo
162	18	the on	to	typo
171	6	Fannie Freddie	Fannie Mae	typo
218	18	Langbein	Langbein	typo
218	20	Langbein	Langbein	typo
13	4	hospital	hostile	incorrect transcription
14	2	target	acquirer	misstatement
—	—	—	—	—

Father Long

SUBSCRIBED AND SWORN BEFORE ME

THIS 4th DAY OF February 2012³.

Gretchen P. Polk

(Notary Public)

GRETCHEN P. POLK
Notary Public, State of New York
No. 5003088
Qualified in Westchester County
Commission Expires October 13, 2014

MY COMMISSION EXPIRES: 10/13/2014

MAYER • BROWN

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December 18, 2012

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 Faten Sabry as "Confidential," as it is defined in the Protective Order:

December 4, 2012 Transcript Page/Line Designation
16:20-29:15
36:3-54:19
55:2-97:17
98:5-133:21
135:10-167:6
172:6-198:2
198:11-241:12
241:22-255:18

December 18, 2012

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

Very truly yours,

A handwritten signature in cursive script that reads "Matthew Ingber (DC)". The signature is written in black ink and is positioned to the right of the typed name.

Matthew D. Ingber

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April 26, 2013

VIA ELECTRONIC MAIL

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

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

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
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EXHIBIT A

Michael A. Rollin

April 26, 2013

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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