

Pickholz, Marvin

From: Lutz, Julie K. [LutzJ@SEC.GOV]
Sent: Wednesday, November 14, 2007 1:54 PM
To: Pickholz, Marvin; Hughes, L J.
Cc: John Harris; jhutchings@dillanddill.com
Subject: RE: Erroneous SEC Statement to Judge Lynch
Follow Up Flag: Follow up
Flag Status: Red
Attachments: Meet and confer letter.pdf; Pickholz letter.pdf; Stipulation - Brokerage Records.pdf; Stipulation - Transfer Agent Records.pdf; Stipulation--Bank records.pdf

Marvin:

In February 2006, I served Requests for Admissions on the parties as to brokerage, transfer agent and bank records.

After objections from the parties, I sent the attached meet and confer letter.

Jason proposed a solution via stipulation. See attached letter. In accordance with his suggestion, stipulations were created and executed based upon a model suggested by Lara Shalov. On that basis the SEC did not proceed with a motion to compel admissions.

Attached are the stipulations. I am currently looking for Jason's signature pages, which may have been misfiled. In the meantime, I would appreciate it if you would look in your files and send them again. It seems best to file the stipulations as Exhibits to make clear what it is that the parties agreed to.

Let me know if you have any further questions.

Thanks. Julie Lutz

From: Pickholz, Marvin [mailto:marvin.pickholz@akerman.com]
Sent: Wednesday, November 14, 2007 10:11 AM
To: Hughes, L J.; Lutz, Julie K.
Cc: John Harris; jhutchings@dillanddill.com
Subject: Erroneous SEC Statement to Judge Lynch

Leslie/Julie

The SEC's filed Joint Pretrial Order arrived this morning. In reviewing that document we note that it erroneously states that the parties have stipulated to the authenticity of the bank, brokerage and transfer records as business records negating the necessity for a custodian of those records to qualify them for admission.

11/15/2007

This is incorrect. Mrs Dreyer expressly testified that certain records she had not seen, others were not the types of records OTC Corporate Transfer Services made or prepared and kept in the ordinary and regular course of its business. Still others she created at the behest of and in the form and with only certain information in them as instructed by the SEC.

As for bank records, we never stipulated any of those nor any brokerage records. My memory is that SEC staff witnesses testified at their depositions, among other things, that they either had not received or did not secure authentications from foreign broker dealers.

In this case, in view of the "coincidence" of the USAO reawakened interest, we have expressly refused to stipulate ANY facts or documents to be offered by the SEC.

If you disagree please cite me to the record references where each of the documents the SEC is seeking to get admitted this way was stipulated to as to its authenticity and as a qualified "business" record of the institution.

Otherwise, please send a correction to Judge Lynch before close of business today with a copy to us to obviate our being forced to advise the Court as above.

Marvin

Marvin G. Pickholz Esq.
Akerman Senterfitt LLP
335 Madison Ave
26th Floor
New York, NY 10017
Phone: (212) 880-3800
Direct: (212) 880-3812
Fax: (212) 880-8965
E-mail: marvin.pickholz@akerman.com



www.akerman.com | Bio | V Card

CONFIDENTIALITY NOTE: The information contained in this transmission may be privileged and confidential information, and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately reply to the sender that you have received this communication in error and then delete it. Thank you.

CIRCULAR 230 NOTICE: To comply with U.S. Treasury Department and IRS regulations, we are required to advise you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this transmittal, is not intended or written to be used, and cannot be used, by any person for the purpose of (i) avoiding penalties under the U.S. Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this e-mail or attachment.

11/15/2007