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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

DAVID A. BLOOM, an individual,

Plaintiff,

v.

J.P. MORGAN CHASE & CO., a Delaware
Corporation, J.P. MORGAN SECURITIES,
INC., a Delaware Corporation, and DOES 1-
20,

Defendants.

No. 09-CV-03418 WHA
Action Filed: July 24, 2009

JOINT ~~PROPOSED~~ ORDER RE
MOTIONS *IN LIMINE*

1 The Motions in Limine of Plaintiff David A. Bloom (“Bloom”) and Defendants J.P.
2 Morgan Chase & Co. and J.P. Morgan Securities, Inc. (collectively, “JPMC”) came before
3 the Court for hearing on November 23, 2010. The parties appeared by and through their
4 respective counsel of record. After consideration of the papers and argument of counsel, the
5 Court rules as follows.

6 1. Plaintiff’s Motion in Limine Number One and Defendant’s Motion in Limine
7 Number Two: The motions are granted in part and denied in part and the Court orders as
8 follows: JPMC shall not introduce evidence regarding any recommendations or advice by
9 internal or external counsel regarding David Bloom. All parties, counsel and witnesses shall
10 not offer or seek to offer into evidence any testimony or ask questions reasonably calculated
11 to elicit objections or instructions to witnesses concerning the substance of legal advice
12 received by JPMC from outside or inside counsel. This order does not prohibit JPMC or
13 Bloom from introducing evidence that (1) JPMC hired Wilmer Cutler Pickering Hale and
14 Dorr LLP (“Wilmer Hale”) to conduct a company-wide investigation concerning potential
15 collusion, bid rigging and price fixing in the municipal derivatives business; (2) in the course
16 of that investigation Wilmer Hale discovered tapes of conversations involving Bloom that it
17 brought to the attention of business persons at JPMC; (3) Wilmer Hale interviewed Bloom
18 regarding those tapes; and (4) JPMC conducted a meeting at which ten executives were
19 present to discuss Bloom’s conduct on the tapes, but no implication of reliance on advice of
20 counsel at that meeting is to be made and none of the persons present shall be identified as
21 lawyers. Moreover, other than points (1)-(3) above, the parties shall not offer any evidence
22 or otherwise mention counsel (whether external or internal) having any role whatsoever in
23 the decision-making process to terminate David Bloom.

24 2. Plaintiff’s Motion in Limine Number Two: This motion is denied, except that JPMC
25 shall not assert that Bloom engaged in criminal behavior.

26 3. Plaintiff’s Motion in Limine Number Three: The Court grants the motion in part
27 and denies the motion in part and orders as follows: All parties, counsel and witnesses are
28 hereby prohibited from offering into evidence, mentioning or discussing in front of the jury

1 that Bloom was arrested or detained as a result of a prior incident at a Hartford airport or that
2 Bloom was involved in an incident at JPMC's loading dock in San Francisco. However, if
3 Bloom or his counsel suggests in evidence or argument that the provision of security at his
4 termination was overbearing, humiliating, or otherwise a source of emotional distress, then
5 JPMC may introduce evidence of the loading dock incident as a reason JPMC provided for
6 security at the time of the termination.

7 4. Plaintiff's Motion in Limine Number Four: The motion is granted in part and denied
8 in part and the Court orders as follows: Nancy Schwarzkopf shall not be permitted to testify
9 at trial; David Gillis shall be permitted to testify in-person at trial, but solely as to those
10 topics to which he testified in his deposition noticed by Plaintiff pursuant to Fed. R. Civ. P.
11 30(b)(6).

12 5. Defendants' Motion in Limine Number One: The Court grants the motion and
13 orders as follows: All parties, counsel and witnesses are hereby prohibited from offering into
14 evidence by way of testimony or documents, or mentioning or discussing in front of the jury
15 any of the following: any diagnosis or treatment of Bloom for depression or any other
16 mental illness, his medical expenses, prescriptions, psychiatric appointments, or consultation
17 with any doctor. Bloom shall be limited to presenting evidence of a "garden variety" claim
18 of emotional distress separate from any medical treatment, diagnosis, or condition.

19 6. Defendants' Motion in Limine Number Three: The Court granted this motion in a
20 separate order dated November 30, 2010.

21
22 IT IS SO ORDERED.

23
24 DATED: December 1, 2010.



25 HON. WILLIAM H. ALSUP
26 UNITED STATES DISTRICT JUDGE