

1 MORGAN, LEWIS & BOCKIUS LLP  
 JAMI WINTZ MCKEON, State Bar No. 237923  
 2 ELIZABETH A. FROHLICH, State Bar No. 195454  
 One Market, Spear Street Tower  
 3 San Francisco, CA 94105-1126  
 Tel: 415.442.1000  
 4 Fax: 415.442.1001  
 E-mail: jmckeon@MorganLewis.com  
 5 E-mail: efrohlich@MorganLewis.com

6 *Attorneys for Defendant*  
 Deutsche Bank Securities Inc.

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN FRANCISCO DIVISION

12 THE ANSCHUTZ CORPORATION,

13 Plaintiff,

14 vs.

15 MERRILL LYNCH & CO., INC.;  
 MERRILL LYNCH, PIERCE, FENNER &  
 16 SMITH, INC.; MOODY'S INVESTORS  
 SERVICE, INC.; THE MCGRAW-HILL  
 17 COMPANIES, INC.; FITCH, INC.; AND  
 FITCH RATINGS, INC.,

18 Defendants

Case No. C 09-03780-SI

**STIPULATION AND [PROPOSED]  
 ORDER TO CONTINUE THE HEARING  
 ON PENDING MOTIONS AND TO  
 RESCHEDULE THE CASE  
 MANAGEMENT CONFERENCE**

Judge: Hon. Susan Illston

Complaint filed: August 17, 2009  
 First Amend. Complaint filed: March 19, 2010

20  
21  
22  
23  
24  
25  
26  
27  
28

1 Plaintiff The Anschutz Corporation (“Plaintiff”), and Defendants Deutsche Bank  
2 Securities Inc. (“DBSI”), Fitch, Inc., Fitch Ratings Ltd, and The McGraw-Hill Companies, Inc.  
3 (“McGraw-Hill,” and collectively “Defendants”), by and through their counsel of record, hereby  
4 stipulate as follows:

5 WHEREAS, Plaintiff filed a First Amended Complaint on March 19, 2010;

6 WHEREAS, the Court issued its order denying DBSI’s motion to transfer venue pursuant  
7 to 28 U.S.C. § 1404(a) on April 13, 2010;

8 WHEREAS, the parties previously stipulated and the Court ordered that if DBSI’s motion  
9 to transfer was denied, the Defendants would have 30 days after such order was entered to answer  
10 or otherwise respond to Plaintiff’s operative pleading (*i.e.* May 13, 2010), if any defendant filed a  
11 motion to dismiss, Plaintiff would serve its opposition within 45 days after service of any such  
12 motion to dismiss (*i.e.* June 28, 2010), and Defendants would have 30 days to serve any reply (*i.e.*  
13 July 30, 2010) (the “Previous Stipulation and Court Order”);

14 WHEREAS, on May 13, 2010, Defendants filed the following motions:

- 15 • DBSI filed (1) a Motion to Dismiss Plaintiff’s First Amended Complaint; (2) a Motion  
16 to Strike Portions of Plaintiff’s First Amended Complaint; and (3) a Request for  
17 Judicial Notice in Support of Its Motion to Dismiss Plaintiff’s First Amended  
18 Complaint;
- 19 • Fitch, Inc., Fitch Ratings Ltd, and McGraw-Hill (collectively, the “Rating Agencies”)  
20 filed (1) a Joint Motion to Dismiss the First Amended Complaint; and (2) a Request  
21 for Judicial Notice; and
- 22 • Fitch Ratings Ltd filed a Motion to Dismiss the First Amended Complaint for Lack of  
23 Personal Jurisdiction Pursuant to Rule 12(b)(2) (collectively, “Defendants’ Motions”  
24 or the “Motions”);

25 WHEREAS, to account for the briefing schedule as stipulated by the parties, and ordered  
26 by the Court in the Previous Stipulation and Court Order, the parties stipulated and the Court  
27 ordered, on May 28, 2010, that the hearing on Defendants Motions would be continued to  
28

1 September 24, 2010 at 9:00 a.m. and that the initial case management conference would be  
2 continued to October 1, 2010 at 2:30 p.m.;

3 WHEREAS, on June 28, 2010, Plaintiff filed a Request for Judicial Notice in support of  
4 its oppositions to Defendants' motions to dismiss that was noticed for September 24, 2010 at 9:00  
5 a.m.;

6 WHEREAS, on August 20, 2010, the Court issued a Notice continuing the hearing on  
7 Defendants' Motions and Plaintiff's Request for Judicial Notice to October 1, 2010 at 9:00 a.m.;

8 WHEREAS, certain parties are unavailable with respect to the October 1, 2010, 9:00 a.m.,  
9 hearing date;

10 WHEREAS, Plaintiff and Defendants have met and conferred with regard to a hearing  
11 date on Defendants' Motions and Plaintiff's Request for Judicial Notice and agree to continue the  
12 hearing date to October 26, 2010 at 9:00 a.m. and also agree to continue the initial case  
13 management conference to October 26, 2010 at 2:30 p.m.;

14 WHEREAS, all discovery has been stayed pending resolution of Defendants' Motions;

15 IT IS THEREFORE STIPULATED AND AGREED, by and between Plaintiff and  
16 Defendants, acting through their respective counsel, subject to this Court's approval, as follows:

- 17 1. The hearing on Defendants' Motions and Plaintiff's Request for Judicial Notice shall be  
18 continued to October 26, 2010 at 9:00 a.m.; and

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

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  
26  
27  
28

2. The initial case management conference currently scheduled for October 1, 2010 shall be rescheduled to October 26, 2010 at 2:30 p.m..

Dated: August 30, 2010

/s/ Andrew C. Shen

Mark C. Hansen  
David L. Schwarz (206257)  
Kevin J. Miller (*pro hac vice*)  
Andrew C. Shen (*pro hac vice*)  
KELLOGG, HUBER, HANSEN, TODD,  
EVANS & FIGEL, P.L.L.C.  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036

R. Alexander Saveri (173102)  
Geoffrey C. Rushing (126910)  
SAVERI & SAVERI, INC.  
706 Sansome Street  
San Francisco, CA 94111-5619

*Attorneys for The Anschutz Corporation*

Dated: August 30, 2010

/s/ Jonathan A. Patchen

Stephen E. Taylor (58452)  
Jonathan A. Patchen (237346)  
Stephen McG. Bundy (253017)  
TAYLOR AND COMPANY LAW  
OFFICES, LLP  
One Ferry Building, Suite 355  
San Francisco, CA 94111

Martin Flumenbaum (*pro hac vice*)  
Roberta A. Kaplan (*pro hac vice*)  
Andrew J. Ehrlich (*pro hac vice*)  
Tobias J. Stern (*pro hac vice*)  
PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP  
1285 Avenue of the Americas  
New York, NY 10019

*Attorneys for Fitch, Inc. and Fitch Ratings Ltd*

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  
26  
27  
28

Dated: August 30, 2010

/s/ David T. Biderman  
David T. Biderman (101577)  
Farschad Farzan (215194)  
PERKINS COIE LLP  
1620 26th Street, Sixth Floor, South Tower  
Santa Monica, CA 90404

Floyd Abrams  
S. Penny Windle  
Tammy L. Roy  
CAHILL GORDON & REINDEL LLP  
80 Pine Street  
New York, NY 10005

*Attorneys for The McGraw-Hill Companies,  
Inc.*

Dated: August 30, 2010

/s/ Elizabeth A. Frohlich  
Elizabeth A. Frohlich (195454)  
Jami Wintz McKeon (237923)  
MORGAN, LEWIS & BOCKIUS, LLP  
One Market, Spear Street Tower  
San Francisco, CA 94105

*Attorneys for Deutsche Bank Securities Inc.*

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2010



---

Honorable Susan Illston  
United States District Judge

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  
26  
27  
28

**GENERAL ORDER 45 CERTIFICATION**

I, Elizabeth A. Frohlich, hereby attest pursuant to N.D. Cal. General Order No. 45 that the concurrences to the filing of this document has been obtained from each signatory hereto.

Dated: August 30, 2010

MORGAN, LEWIS & BOCKIUS LLP  
Jami Wintz McKeon  
Elizabeth A. Frohlich

By  /s/ Elizabeth A. Frohlich  
Elizabeth A. Frohlich  
  
*Attorneys for Defendant*  
Deutsche Bank Securities Inc.