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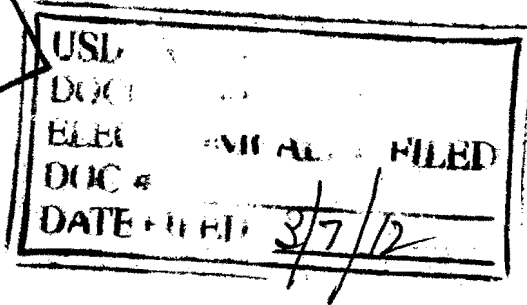
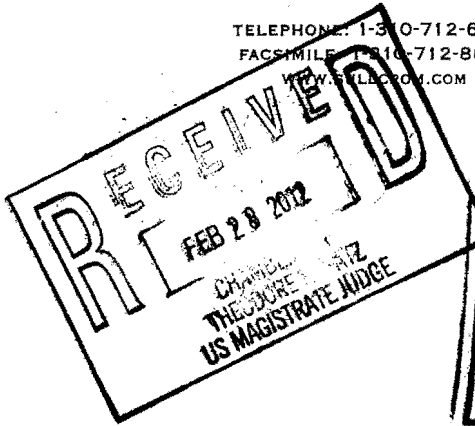
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February 27, 2012

By Hand

Honorable Theodore H. Katz,
United States Magistrate Judge,
Daniel Patrick Moynihan U.S. Courthouse,
500 Pearl Street,
New York, New York 10007.

Re: Anwar v. Fairfield Greenwich Limited, 09-CV-118 –
Standard Chartered Cases

Your Honor:

I write on behalf of the Standard Chartered Defendants (“Standard Chartered”) in the above-captioned action, to request that the Court enter a protective order barring plaintiffs from proceeding with a deposition of Richard Holmes, the former President, Chairman and Chief Executive Officer of American Express Bank Limited (“AEBL”), and currently the Chief Executive Officer, UK and Europe, Standard Chartered Bank.

During the January 27, 2012 discovery conference, Your Honor denied plaintiffs’ request that Standard Chartered be required to search Mr. Holmes’s files for documents that might be responsive to plaintiffs’ discovery requests. (Jan. 27, 2012 Hearing Tr. at 71-72.) Demonstrating a tin ear, plaintiffs noticed the deposition of Mr. Holmes just two days later.

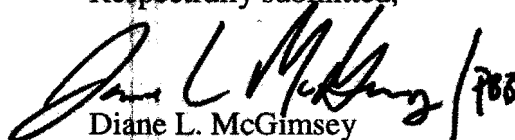
The Court should bar the noticed deposition for the same reason it did not require Standard Chartered to search Mr. Holmes’s files. The factual record in this case does not suggest that Mr. Holmes has any unique or superior knowledge of any issues of relevance in this lawsuit. Even if he did have such knowledge, plaintiffs’ attempt to depose him without making any attempt to obtain the same discovery through less intrusive methods is improper. *See Consolidated Rail Corp. v. Primary Indus. Corp.*, 1993 U.S. Dist. LEXIS 12600, at *3 (S.D.N.Y. Sept. 10, 1993) (courts generally will not require deposition of senior executives “until it has been demonstrated that they have

some unique knowledge pertinent to the issues” and less intrusive means of discovery have been exhausted).

Here, plaintiffs cannot cite any evidence indicating that Mr. Holmes has unique knowledge about the issues in this litigation. As the top executive of AEBL, a large international bank with many lines of business, he was not involved in the due diligence that was conducted on Fairfield Sentry Limited or the sales of that fund to plaintiffs. None of the tens of thousands of documents produced in this litigation indicates that Mr. Holmes had any involvement in, or knowledge of, the events alleged in these cases, other than his attendance at a 2003 Product Approval Committee (“PAC”) meeting at which Fairfield Sentry was discussed. There is no indication that Mr. Holmes has any unique knowledge about that meeting that would justify his deposition. See *Treppel v. Biovail Corp.*, 2006 WL 468314, at *2-3 (S.D.N.Y. 2006) (granting protective order of corporate executive where “another source could provide identical information”). Plaintiffs also cannot dispute that there are less burdensome ways of obtaining discovery about the 2003 PAC meeting: they have deposed or are scheduled to depose five other attendees of that meeting.

In short, “plaintiffs have failed to demonstrate a need for Mr. [Holmes]’s testimony, and the likelihood of harassment is significant.” *Lin v. Benihana Nat’l Corp.*, 2010 U.S. Dist. LEXIS 107839, at *6-7 (S.D.N.Y. Oct. 5, 2010). Standard Chartered therefore respectfully requests that the Court enter a protective order barring Mr. Holmes’s deposition.

Respectfully submitted,


Diane L. McGimsey

cc: Members of the Plaintiffs’ Steering Committee

Dependants' application for a protective order is granted. The deposition of Mr. Holmes, the CEO of American Express Bank Ltd., has not been shown to be justified at this time. There is no need to depose every person present at a meeting. This Order is without prejudice to plaintiffs renewing their deposition notice should the other deponents have insufficient knowledge.

*So ordered.
3/7/12 Theodore H. Katz
USDC*