

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DATATREASURY CORPORATION,

Plaintiff,

vs.

WELLS FARGO & COMPANY; ET AL.

Defendants.

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**RESPONSE TO PLAINTIFF'S MOTION TO AUTHORIZE
JURISDICTIONAL DISCOVERY**

Defendant HSBC North America Holdings Inc. files this response to Plaintiff's motion to authorize jurisdictional discovery, showing as follows:

1. Discovery on matters of personal jurisdiction should not be permitted unless the motion to dismiss raises issues of fact. *Wyatt v. Kaplan*, 686 F.2d 276, 284 (5th Cir. 1982). When the lack of personal jurisdiction is clear, as it is in this case, additional discovery would serve no purpose and should not be permitted. *Wyatt v. Kaplan*, 686 F.2d at 284; *Hockerson-Halberstadt, Inc. v. Propet USA, Inc.*, 62 Fed. Appx. 322,338 (Fed.Cir. 2003).

2. The issues raised and the exhibits attached to Plaintiff's Response to HNAH's Motion to Dismiss are irrelevant to this Court's analysis of specific personal jurisdiction over HNAH. In fact, in the interest of judicial economy and to avoid unnecessary discovery, HNAH asks that this Court accept as true the following contentions of Plaintiff for purposes of HNAH's Motion to Dismiss:

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- a) That HNAH awards educational grants to not-for-profit organizations throughout the country including a grant of \$80,000 to FAIM Economic Development Corporation, located in Dallas, Texas;
 - b) On 1 January 2004, HSBC formed a new company to hold all of its North American operations, including HSBC Bank USA. This company, called HSBC North America Holdings Inc. is a “bank holding company” under the BHCA, by virtue of its ownership and control of HSBC Bank USA;
 - c) HSBC Bank USA, a wholly owned subsidiary, does not contest personal jurisdiction in this proceeding;
 - d) HSBC Bank USA, a wholly owned subsidiary of HNAH, does have an ownership interest in SVPCo/The Clearing House Payments Company.

None of the above-listed facts are relevant to an analysis of personal jurisdiction as to HNAH, and additional discovery would serve no purpose and should not be permitted.

3. Alternatively, if this Court determines additional discovery should be authorized, HNAH asks that it be permitted to seek discovery with regard to the knowledge, information, and evidentiary support that Plaintiff possessed prior to filing its Federal Complaint alleging that HNAH had a presence in the State of Texas for purposes of jurisdiction.

For the foregoing reasons, HSBC North America Holdings Inc. requests that this court deny Plaintiff’s motion to authorize jurisdictional discovery, or alternatively permit HSBC North America Holdings Inc. to conduct discovery as to any supporting evidence that allowed Plaintiff to bring this lawsuit against this Defendant.

Dated: June 30, 2006

Respectfully submitted,

BOUDREAUX, LEONARD, HAMMOND & CURCIO, P.C.

By: /s/ Glen M. Boudreaux

Glen M. Boudreaux
State Bar No. 02696500

Lead Attorney for HSBC North America Holdings Inc.

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Two Houston Center
909 Fannin, Suite 2350
Houston, Texas 77010
Telephone: (713) 757-0000
Telefax: (713) 757-0178
Gboudreaux@blhc-law.com

Of Counsel:

Boudreaux, Leonard, Hammond & Curcio, P.C.

Tim S. Leonard
State Bar No. 12211200
909 Fannin, Suite 2350
Houston, Texas 77010
Tel. (713) 757-0000
Fax (713) 757-0178
Email: tleonard@blhc-law.com

WilmerHale
Irah H. Donner
399 Park Avenue
New York, N.Y. 10022
Tel. (212) 230-8887
Fax (212) 230-8888
Email: irah.donner@wilmerhale.com

Locke Liddell & Sapp LLP
Roy W. Hardin
2200 Ross Avenue, Suite 2200
Dallas, Texas 75201-6776
Tel. (214) 740-8556
Fax (214) 740-8800
Email: rhardin@lockeliddell.com

Law Offices of Richard Grainger
Richard Grainger
118 West Houston Street
Tyler, Texas 75710
Tel. (903) 595-3514
Fax (903) 595-5360
Email: graingerpc@aol.com

Certificate of Service

I certify that a copy of HSBC North America Holdings Inc.'s Response to Plaintiff's Motion to Authorize Jurisdictional Discovery was served on June 30, 2006, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Glen M. Boudreaux

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