

The Receiver issued four subpoenas to Whitney Bank in 2011.² Cumulatively, the subpoenas seek documents responsive to forty-four requests for production. In response to the subpoenas, Whitney Bank and its outside counsel identified and preserved hundreds of thousands of potentially responsive documents and hired electronic discovery vendors to process and host more than 30 GB of data. The bank ultimately reviewed and produced large volumes of responsive documents. Because of some disagreements with the Receiver regarding the scope of certain privileges, the bank has submitted some documents to the Court for in camera review, along with a brief on the relevant privileges.³ Whitney Bank has worked cooperatively with the Receiver whenever possible, but the cost associated with its response to the subpoenas has been enormous.

II. THE PROPOSED SETTLEMENT AUTHORIZES DUPLICATE DISCOVERY

In the Proposed Settlement, movants indicate that they will submit an agreed stipulation that will grant the Joint Liquidators the ability to conduct discovery in the United States without regard to any prior discovery efforts. Movants seek this Court's authority to permit the Joint Liquidators "the right to seek the procurement of trial testimony or exhibits (by Letters Rogatory, the Chapter 15 proceedings, or otherwise) in the United States without having to fulfill the conditions to relief set forth in the US Court's Chapter 15 order . . ."⁴ This stipulation directly contradicts the Court's Chapter 15 order, which limited the Joint Liquidators' ability to seek discovery in the United States.⁵

Notably absent from the Proposed Settlement is any limitation of the Joint Liquidators' discovery efforts to those that do not duplicate the efforts of the Receiver, the Examiner, and the

² Technically, the subpoenas are directed to Whitney National Bank and Hancock Bank of Louisiana, two predecessor entities, both of which currently operate under the name Whitney Bank. For purposes of this objection, we will refer to the entities collectively as "Whitney Bank."

³ Non-Party Whitney Bank's Brief on the Bank Secrecy Act Privileges [Doc. 1760].

⁴ Proposed Settlement [Doc. 1792] at Section 4.3 [Page ID 48990].

⁵ Order dated July 30, 2012 [Doc. 176] at 56 [Page ID 13236–37].

Committee—a provision that the Court specifically included in its earlier order.⁶ By this omission, movants apparently seek to recast the Court's Chapter 15 order while eliding the provisions that protect parties and non-parties, such as Whitney Bank, from duplicative and burdensome discovery.

**III.
PRAYER**

For these reasons, Whitney Bank asks that its objections be sustained, that the Court deny the Amended Joint Motion of the SEC, Receiver, Examiner, and Official Stanford Investors Committee to Approve Settlement Agreement and Cross-Border Protocol, and for such other and further relief to which Whitney Bank may be entitled.

Respectfully Submitted,

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⁶ *Id.* at p.57 [Page ID 13237] ("The Court then conditions all relief on . . . precluding the Joint Liquidators from duplicating efforts by the Receiver, the Examiner, and OSIC . . .").

CERTIFICATE OF SERVICE

I certify that on the 28th day of March, 2013, a true and correct copy of the foregoing was served on all counsel of record via the Court's CM/ECF filing system.

By: s/ David M. Clem
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