

SUPREME COURT OF THE STATE OF NEW YORK - NEW YORK COUNTY

PRESENT: Hon. Sherry Klein Heitler  
Administrative Order

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AOZORA BANK, LTD.,

Plaintiff,

- v -

INDEX NO. 652162/13

UBS SECURITIES LLC; UBS AG; UBS  
LIMITED, and DEUTSCHE INVESTMENT  
MANAGEMENT AMERICAS, INC.,

Defendants.

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Administrative Order:

By letter dated February 6, 2015, counsel for defendant Deutsche Investment Management Americas, Inc. (DIMA) requests, with the consent of all defendants, that this action be reassigned to the Hon. Jeffrey K. Oing as a result of the recent retirement of the Hon. Melvin L. Schweitzer. Defense counsel contends that this action is related to Aozora Bank, Ltd. v Deutsche Bank Securities Inc. et al., Index No. 652161/13 (the Oing Aozora Action), an action recently disposed of by Justice Oing in his January 2015 ruling on a statute of limitations defense. By letter dated February 9, 2015, plaintiff's counsel opposes and requests a random reassignment to another justice of the Commercial Division.

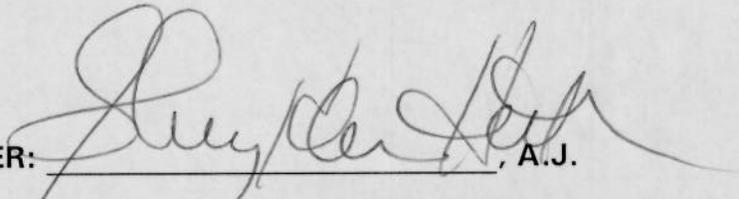
This action, commenced on June 18, 2013, charges defendants with, inter alia, fraud, negligent misrepresentation, breach of the implied covenant of good faith and fair dealing, tortious interference with contract, breach of contract, and unjust enrichment in connection with their creation, marketing and sale of a collateralized debt obligation (CDO) known as the Brooklyn Structured Finance CDO, Ltd. The Oing Aozora Action was also commenced on June 18, 2013 and involves similar claims involving a CDO known as Blue Edge ABS CDO Ltd. Notably, the Request For Judicial Intervention (RJI) in the Oing Aozora Action was filed by defense counsel on March 10, 2014 and listed no related actions pending in this court.

In the absence of the consent of all parties to Referee Schweitzer continuing to preside over cases previously assigned to him, the cases are being

randomly reassigned to other justices of the Commercial Division. I see no cause to deviate from that policy in this instance. DIMA's counsel argues that the Oing Aozora action is a "similar matter brought by the same plaintiff" and suggests that assignment to Justice's Oing is appropriate for "efficiency" regarding the defendants' statute of limitations defense. However, the relatedness of the two actions was not noted at the time of the filing of the RJl in the Oing Aozora Action. Indeed, it has come to my attention that Aozora Bank, Ltd. filed at least seven lawsuits in this court in 2013 over different CDO deals (see Index Nos. 651327/13, 651510/13, 652159/13, 652160/13, 652161/13, 652162/13 & 652274/13). In none of these cases, did the lawyers who filed the RJls list any of the other Aozora Bank, Ltd. actions as related, and thus these actions have been assigned to five different justices of the Commercial Division.

For these reasons, the General Clerks Office is directed to reassign this action at random from Part 45 (Schweitzer, J.) to a Justice of the Commercial Division. Motions 001 and 002 are currently sub judice.

Dated: February 18, 2015

ENTER:  A.J.

HON. SHERRY KLEIN HEITLER

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION